2016 COPYRIGHT DEVELOPMENTS

Prepared for the American Bar Association’s
Copyright Division
by Joshua L. Simmons, Vice Chair
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I. COPYRIGHT DECISIONS

U.S. Supreme Court

KIRTSANG V. JOHN WILEY & SONS, INC.

Section 505 of the Copyright Act provides that a district court "may ... award a reasonable attorney's fee to the prevailing party." ... The question presented here is whether a court, in exercising that authority, should give substantial weight to the objective reasonableness of the losing party's position. The answer, as both decisions below held, is yes-the court should. But the court must also give due consideration to all other circumstances relevant to granting fees; and it retains discretion, in light of those factors, to make an award even when the losing party advanced a reasonable claim or defense. Because we are not certain that the lower courts here understood the full scope of that discretion, we return the case for further consideration of the prevailing party's fee application.

D.C. Circuit

ALLIANCE OF ARTISTS AND RECORDING COMPANIES, INC. V. GENERAL MOTORS COMPANY

The Audio Home Recording Act of 1992 ("AHRA"), 17 U.S.C. §§ 1001 et seq., requires manufacturers, importers, and distributors of "digital audio recording devices" ("DARDs") to incorporate certain copying control technology into their devices and pay a set royalty amount for each device. The AHRA is part of federal copyright law, and a non-profit organization called the Alliance of Artists and Recording Companies ("AARC") assists the U.S. Copyright Office in enforcing the AHRA's provisions by, among other things, collecting AHRA royalties and distributing them to featured recording artists and sound recording copyright owners. ... In the instant action, the AARC contends that automobile suppliers DENSO International America, Clarion Corporation of America, and Mitsubishi Electric Automotive America have developed certain audio technology that car manufacturers General Motors Company, Inc., Ford Motor Company, and FCA US (collectively, "Defendants") have been installing in certain car models since 2008.1 The AARC believes these audio devices qualify as DARDs for AHRA purposes; its five-count complaint seeks an injunction, a declaratory judgment, and monetary damages, claiming that Defendants should be paying royalties and implementing copying control technology when vehicles equipped with these devices are made and marketed, and that Defendants have violated the AHRA because they have done no such thing to date. ...
mandated royalty payments and technology limits do not apply. This Court largely agrees with these defendants' interpretation of the statute for the reasons explained below, but it also concludes that the allegations that the AARC makes regarding the devices at issue are sufficient to survive the Rule 12 motions. Accordingly, and as set forth in the separate order that accompanies this Memorandum Opinion, these motions will be DENIED.

First Circuit

JANE DOE NO. 1 v. BACKPAGE.COM, LLC
No. 15-1724, 2016 WL 963848 (1st Cir. Mar. 14, 2016)

This is a hard case—hard not in the sense that the legal issues defy resolution, but hard in the sense that the law requires that we, like the court below, deny relief to plaintiffs whose circumstances evoke outrage. The result we must reach is rooted in positive law. Congress addressed the right to publish the speech of others in the Information Age when it enacted the Communications Decency Act of 1996 (CDA). See 47 U.S.C. § 230. Congress later addressed the need to guard against the evils of sex trafficking when it enacted the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), codified as relevant here at 18 U.S.C. §§ 1591, 1595. These laudable legislative efforts do not fit together seamlessly, and this case reflects the tension between them. Striking the balance in a way that we believe is consistent with both congressional intent and the teachings of precedent, we affirm the district court's order of dismissal. The tale follows. . . .

The last leg of our journey takes us to a singular claim of copyright infringement. Shortly after the institution of suit, Doe # 3 registered a copyright in one of the photographs used by her traffickers. In the second amended complaint, she included a claim for copyright infringement. The court below dismissed this claim, reasoning that it identified no redressable injury. . . . Doe # 3 challenges this ruling.

Assuming (without deciding) that Backpage could be held liable for copyright infringement, the scope of Doe # 3's potential recovery is limited by the fact that she did not register her copyright until December of 2014—after the instant action had been filed. By then, Backpage was no longer displaying the copyrighted image. Given the timing of these events, Doe # 3 cannot recover either statutory damages or attorneys' fees under the Copyright Act. . . . Any recovery would be restricted to compensatory damages under 17 U.S.C. § 504(b), which permits a successful suitor to recover “the actual damages suffered by ... her as a result of the infringement, and any profits of the infringer that are attributable to the infringement and are not taken into account in computing the actual damages.”

The prospect of such a recovery, however, is purely theoretical: nothing in the complaint raises a plausible inference that Doe # 3 can recover any damages, or that discovery would reveal such an entitlement.

CHAWLA v. SUBRAMANIAN
Plaintiff, Anil Chawla (“Chawla”) has filed suit against Swathi Subramanian (“Subramanian”) and Swaraag, Inc. alleging claims for infringement of intellectual property rights (trademarks), harassment, fraud and defamation. Chawla's claims relate to Defendants’ alleged interference with his operation of Boston Sargam (“Sargam”)1, an organization formed for the purpose of organizing cultural events showcasing the talents of the South Asian Community. More specifically, Chawla alleges that Subramanian, who was a board member of Sargam along with himself and Tej Singh (“Singh”): (1) unilaterally and without proper appointed herself as president of Sargam and filed false documents with the Secretary of State reflecting this change; (2) changed Sargam's designated address with the Internal Revenue Service, the Secretary of State and PayPal from Chawla's address to a P.O. Box address to which she had greater access; (3) kept information important to the organization from Chawla and other core members; (4) took responsibility away from core members and assigned them to people who answered only to her; (5) refused to share financial information with Chawla and kept he and other core members in the dark regarding profits and expenses relating to events and unilaterally having his name stricken as an authorized signer on the Sargam's bank account; (6) unilaterally changed the password permitting access to the website, www.bostonsargam.org.; (7) reserved domain names similar to “bostonsargam.org” in an attempt to dilute and sabotage Sargam's activities by holding similar events and activities to those of Sargam; (8) representing to facility owners that she was acting on behalf of Sargam, while in reality, she was blocking Chawla from acting on Sargam's behalf; and (9) violating Sargam's/Chawla's copyrights by copying style and contents from bostonsargam.org and using it on other websites controlled by her.

This Memorandum of Decision and Order addresses, Defendant Swathi Subramanian's and Swaraag Inc.'s Motion For Summary Judgment (Docket No. 70), which is denied for the reasons set forth below. . . .

The Court again has grave doubts as to whether Chawla has a valid claim under the DMCA. First, it is unclear as to whether Chawla, in his individual capacity, has the right to bring this claim. Additionally, given the allegations in the Amended Complaint, it does not appear that Chawla complied with the statutory prerequisites to obtaining relief. However, Defendants do not address this claim in their motion for summary judgment and therefore, at present, the claim survives.

ICONICS, INC. V. MASSARO

This litigation began as a dispute between Iconics, a software company, and its former employee, defendant Simone Massaro, over copyright infringement. During the travel of the case, it has metastasized to include ten causes of action and multiple defendants, although copyright is still at its heart. Motions for summary judgment based on the statute of limitations are now before regarding five causes of action against two defendants: Simone Massaro and Chris Volpe. Specifically, the motions are directed at the following: certain copyright infringement allegations (Count I)1, certain trade secret allegations (Count II)2, the claim of intentional interference with
contractual relations (Count IV), the claim concerning removal and alteration of copyright management information (Count V) and the civil RICO claim (Count IX). Defendants do not currently assert a statute of limitations defense with respect to the other counts. They also do not assert a statute of limitations defense for claims against defendants BaxEnergy GmbH, BaxEnergy Italia S.r.L, or Vento Industries, Inc. . . .

For the reasons set forth above, I GRANT IN PART and DENY IN PART Defendants' motion for summary judgment. I deny the motion in so far as it seeks summary judgment on the statute of limitations grounds for claims against Simone Massaro. I grant summary judgment based on the statute of limitations grounds for the trade secrets, intentional interference with contractual relations and DMCA claims against Christopher Volpe, as well as the copyright infringement claims related to Volpe Industries, but deny summary judgment as to him for the civil RICO claims and the copyright infringement claims related to BaxEnergy.

PINA V. RIVERA
No. CV 11-2217 (GAG), 2016 WL 868190 (D.P.R. Mar. 7, 2016)

Plaintiffs Rafael Pina (“Pina”), World Management Latino Corp., and World Music Latino Corp filed the present Complaint on December 16, 2011, alleging breach of contract and copyright infringement by Defendant Tony Feliciano Rivera (“Feliciano”). (Docket No. 13.) On December 4, 2013, Plaintiffs and Defendant Feliciano entered into a Confidential Settlement Agreement (“Settlement Agreement”).1 (Docket No. 93.) Accordingly, this Court dismissed the claims against Feliciano, but retained jurisdiction to enforce the Settlement Agreement. (Docket No. 95.) Plaintiffs now move for a preliminary injunction enjoining Feliciano's alleged violations of the Settlement Agreement. (Docket Nos. 129; 130.) . . .

Pending before the Court is Feliciano's Objection to Magistrate Judge Bruce McGiverin's R&R on Plaintiff's Motion for Preliminary Injunction. (Docket No. 183.) Feliciano timely objected to the Magistrate Judge's R&R and requests that the Court deny Plaintiff's Motion for Preliminary Injunction. Id. Defendant argues that Judge McGiverin relied on a flawed interpretation of the CSA, and the Puerto Rico Civil Code provisions that govern it. Id. at 1. Feliciano contends he is not bound by the terms of the agreement until 2018, and that he has already satisfied the full judgment award of $500,000. Id. at 14. Yet, Defendant concedes that the CSA supersedes any other agreements and binds both parties. Id. at 1.

After reviewing the R&R and the applicable law, the Court hereby ADOPTS Magistrate Judge McGiverin's R&R at Docket No. 176 in its entirety and GRANTS Plaintiff's Motion for Preliminary Injunction at Docket Nos. 129 and 130.

HASSETT V. HASSELBECK
On December 30, 2014, pro se plaintiff Susan Hassett filed a complaint against defendant Elisabeth Hasselbeck alleging conversion. Hassett claims that a book by Hasselbeck featuring gluten-free recipes amounts to a conversion of Hassett's earlier published book with a similar theme. Hassett seeks $1,000,000 in damages. Hasselbeck has moved to dismiss the complaint. Hassett alleges she is the author of a book entitled Living with Celiac Disease ("Living"), for which she obtained a copyright in March 2008. She alleges she mailed a copy of Living to Hasselbeck in April 2008 and that Hasselbeck received the book several days later.

In 2009, Hasselbeck published The G Free Diet. Hassett, then represented by counsel, brought suit against Hasselbeck, her publisher, and her ghost writer, alleging copyright infringement with respect to The G Free Diet. Hassett v. Hasselbeck, C.A. 09-11063-JLT (D. Mass.). In November 2009, the case was dismissed pursuant to Local Rule 4(m) for lack of prosecution.

Soon thereafter, Hassett, acting pro se, brought essentially the same suit. Hassett v. Hasselbeck, C.A. 09-12034-MLW (D. Mass.). Hassett alleged that the defendants published and distributed The G Free Diet, which she claimed was "substantially similar" to her copyrighted book. The defendants moved to dismiss the complaint on the ground that the purported similarities identified by Hassett were not copyrightable and failed to support an infringement claim. The court treated the defendants' motion to dismiss as a motion for summary judgment and, after careful analysis, granted summary judgment for the defendants. The court held that, after the elements of Living not eligible for copyright protection were identified and eliminated from consideration, a rational factfinder would be compelled to conclude that no substantial similarity existed between the two books. Hassett v. Hasselbeck, 757 F. Supp. 2d 73, 77-78 (D. Mass. 2010). The First Circuit affirmed. Hassett v. Hasselbeck, No. 11-1111, slip op. at 1-2 (1st Cir. Nov. 7, 2011).

In 2012, Hasselbeck published a second book, Deliciously G-Free. Hassett then brought this complaint against Hasselbeck for conversion, arguing that Hasselbeck improperly used Living to write Deliciously G-Free. She claims that Hasselbeck “converted [Hassett’s] book” by using Hassett’s “framework structure,” “text,” “recipes,” “information,” and “compilation of research” when writing Deliciously G-Free. (Compl. ¶¶ 4, 10, 11 (dkt. no. 1).)

For all these reasons, Hassett's allegations are insufficient to sustain a claim that Hasselbeck unlawfully appropriated her protected expression. In particular, she has failed to adequately plead facts that plausibly show that Hasselbeck's Deliciously G-Free is substantially similar to Hassett's Living. The purported similarities alleged by Hassett arise out of the general ideas, facts, functional directions, and aspects of the works customary to the genre, none of which are copyrightable. Once these unprotected elements are filtered from consideration, it is implausible on these allegations that Hassett could show that the two works are substantially similar in the eyes of a reasonable, ordinary observer.
This case centers on the competing intellectual property claims of two companies that sell Himalayan pink salt. Defendants have moved for summary judgment on Count I (copyright infringement) and Count II (false advertising) of Plaintiff's Amended Complaint. . . . Plaintiff has moved for summary judgment on Count I and on all five counts of Defendants' counterclaim. . . .

In 2006, Plaintiff created the photograph at the core of the copyright dispute (the "Image") and used it in its marketing efforts. The Image shows a box of Plaintiff's pink salt, surrounded by bowls of berries and salt. One of Defendants' employees (not surprisingly, no longer employed by them) foolishly copied the Image, mostly leaving the photograph unchanged, but replacing Plaintiff's product with a depiction of Defendants' product (the "Altered Image"). Defendants thereafter used the Altered Image in their online and print catalogues. It was only after Plaintiff learned of Defendants' blatant copying that Plaintiff obtained a copyright registration of the Image (Registration VA 0001812255) on May 1, 2012.

Based on these undisputed facts, which Defendants concede, Plaintiff is entitled to judgment as to liability on Count I of its amended complaint, the copyright claim.

Second Circuit

Court of Appeals for the Second Circuit

SIMMONS V. STANBERRY

Plaintiff Tyrone Simmons appeals from a judgment of the United States District Court for the Eastern District of New York (Irizarry, J.) dismissing his suit on grounds of untimeliness. Simmons, who is a writer and performer of hip-hop music, brought this suit against hip-hop producer William C. Stanberry, Jr., the well-known rapper Curtis Jackson (who performs under the name 50 Cent), and various corporate entities involved in the production and distribution of the 2007 song “I Get Money,” which was produced by Stanberry and recorded by Jackson. . . .

Kwan controls this case. As in Kwan, more than three years prior to Simmons's filing of his suit, Stanberry had made clear to him that he rejected Simmons's assertion of an interest in the copyright and had gone on to exploit the copyrighted work in a manner of which Simmons was on notice. Simmons's assertion of his claim of a copyright interest was therefore time-barred. As in Kwan, furthermore, he could not revive the time-barred claim of ownership of a copyright interest by relying on the defendants' continued exploitation of the copyright within three years of his filing suit.

CBS BROADCASTING INC. V. FILMON.COM, INC.
No. 14-3123-CV, 2016 WL 611903 (2d Cir. Feb. 16, 2016)

FilmOn.com, Inc. (“FilmOn”) and FilmOn's Chief Executive Officer, Alkiviades David (“David”), appeal from an August 15, 2014 judgment entered in the United States District Court for the Southern District of New York (Buchwald, J.) pursuant to a decision holding FilmOn and
David in contempt of an August 8, 2012 Consent Order of Judgment and Permanent Injunction (the “Injunction”). The Injunction prohibited FilmOn from distributing copyrighted content owned by Plaintiffs–Appellees (collectively, the “Plaintiffs”—a group of television networks including CBS Broadcasting Inc., NBC Studios LLC, Fox Television Stations, Inc., and ABC Holding Company Inc. On July 7, 2014, the district court ordered FilmOn and David to show cause why the district court should not hold FilmOn in contempt for violating the Injunction because FilmOn had used its Teleporter technology (“Teleporter System”) to distribute the Plaintiffs' copyrighted television programs without the Plaintiffs' permission. The district court found that FilmOn had violated the Injunction and held both FilmOn and David in civil contempt, sanctioned FilmOn $90,000, and awarded the Plaintiffs attorneys' fees. On appeal, FilmOn and David argue that the district court abused its discretion when it held them in contempt, sanctioned FilmOn, and awarded the Plaintiffs attorneys' fees. For the reasons stated below, we affirm the district court's decision.

FLO & EDDIE, INC. V. SIRIUS XM RADIO, INC.
No. 15-1164-CV, 2016 WL 1445100 (2d Cir. Apr. 13, 2016)

This case presents a significant and unresolved issue of New York copyright law: Is there a right of public performance for creators of sound recordings under New York law and, if so, what is the nature and scope of that right? Because this question is important, its answer is unclear, and its resolution controls the present appeal, we reserve decision and certify this question to the New York Court of Appeals.

CAPITOL RECORDS, LLC V. VIMEO, LLC
No. 141048104910671068, 2016 WL 3349368 (2d Cir. Jun. 16, 2016)

This is an interlocutory appeal on certified questions from rulings of the United States District Court for the Southern District of New York (Abrams, J.). interpreting the Digital Millennium Copyright Act of 1998 ("DMCA"). . . . We affirm the district court's rulings in part and vacate in part. (i) On the first question—whether the safe harbor protects service providers from infringement liability under state copyright laws—we conclude it does and accordingly vacate the district court's grant of partial summary judgment to Plaintiffs on this question. (ii) As to whether some viewing by a service provider's employee of a video that plays all or virtually all of a recognizable copyrighted song is sufficient to establish red flag knowledge, disqualifying the service provider from the benefits of the safe harbor, we rule that, under the standard set forth in Viacom International, Inc. v. YouTube, Inc., 676 F.3d 19, 26 (2012), it does not. We therefore remand for reconsideration of the various denials of summary judgment in Vimeo's favor. (iii) On whether Plaintiffs showed a general policy of willful blindness that disqualifies Vimeo from claiming protection of the safe harbor, we agree with the district court's ruling in Vimeo's favor.

EMI BLACKWOOD MUSIC INC. V. KTS KARAOKE, INC. DBA KTSKARAOKE.COM
No. 15-2308-CV, 2016 WL 3917723 (2d Cir. Jul. 20, 2016)
Plaintiffs-Appellees EMI Blackwood Music Inc., EMI April Music Inc., Colgems-EMI Music Inc., EMI Gold Horizon Music Corp., EMI U Catalog Inc., EMI Unart Catalog Inc., Jobete Music Co., Inc., and Stone Diamond Music Corporation (together, "EMI") are music publishers that own or administer the copyrights or exclusive rights under copyright of numerous musical compositions. . . .

On appeal, KTS argues that the dismissal with prejudice entitles it to an award of attorneys' fees as the prevailing party in the litigation. It further argues that the district court abused its discretion because its denial of KTS's motion was based on an erroneous determination of law because the dismissal itself constituted a ruling in favor of KTS. . . .

Assuming that the settlement agreement here both materially altered the legal relationship between the parties and bore such a judicial imprimatur, we cannot find that KTS was a prevailing party. After all, the settlement only effected this shift in the parties' legal relationship upon KTS's insurer's payment of more than $1 million to EMI. It is thus EMI that could be said to have attained a favorable result. This Court has been offered no support for KTS's assertion that simply "a dismissal with prejudice constitutes a decision on the merits in favor of the defendant." . . . KTS points to our decision in Chase Manhattan Bank, N.A. v. Celotex Corp., . . . as authority. But this case stands instead for the proposition that "[a] voluntary dismissal with prejudice is an adjudication on the merits for purposes of res judicata." . . . That does not mean that a voluntary dismissal with prejudice, pursuant to a settlement agreement, renders a defendant a prevailing party in a copyright action for purposes of attorneys' fees when, as here, said defendant's insurer has paid substantial sums to achieve this result. The district court acted well within its discretion to deny this request for fees.

URBONT V. SONY MUSIC ENTERTAINMENT
No. 15-1778-CV, 2016 WL 4056395 (2d Cir. Jul. 29, 2016)

In this copyright case, Plaintiff-Appellant Jack Urbont brought suit to enforce his claimed ownership rights in the "Iron Man" theme song against what he alleges is infringement by Defendants Sony Music Entertainment ("Sony"), Razor Sharp Records, and Dennis Coles, a/k/a Ghostface Killah. In the proceedings below, Defendants-Appellees Sony and Razor Sharp Records challenged Urbont's ownership of the copyright by arguing that the Iron Man theme song was a "work for hire" created at the instance and expense of Marvel Comics ("Marvel"). The district court agreed, and it determined that Urbont failed to present sufficient evidence to rebut the presumption that Marvel was, in fact, the copyright owner. The court dismissed Urbont's New York common law claims for copyright infringement, unfair competition, and misappropriation on the basis that those claims were preempted by the Copyright Act.

We hold that although the district court properly determined that the appellees had standing to raise a "work for hire" defense to the plaintiff's copyright infringement claim, the court erred in concluding that Urbont failed to raise issues of material fact with respect to his ownership of the
copyright. We further conclude that the district court properly dismissed Urbont's state law claims as preempted by the Copyright Act. We thus vacate the district court's summary judgment ruling with respect to plaintiff's Copyright Act claim and remand for further proceedings consistent with this opinion. We affirm the district court's ruling dismissing Urbont's state law claims.

District of Connecticut

EAST POINT SYSTEMS, INC. V. MAXIM

Plaintiffs, East Point Systems, Inc., Thomas Margarido, Jason Margarido and Paul Taff, brought this action against Defendants, Steven Maxim, S2K, Inc., Maxim Enterprises, Inc., Maxim Field Service Supply, Inc. (collectively, the “Maxim Defendants”), Edwin Pajemola, and Cleveland Field Systems, LLC (collectively, the “Pajemola Defendants”). The Court held a four-day bench trial, and now sets forth its findings of fact and conclusions of law under Federal Rule of Civil Procedure 52(a)(1).

As explained below, the Court finds for the Maxim Defendants on Counts One through Eight, and Ten through Fourteen. The Court finds for Plaintiffs on Count Nine and orders S2K, Inc. to sell its shares of East Point Systems, Inc. for $57,000. The Court also finds for Plaintiffs on Count Fifteen and establishes a constructive trust over any Field Navigator software in the Maxim Defendants' possession containing Field-Comm.net database tables.

The Court finds for Plaintiffs on Counts Eleven through Thirteen against the Pajemola Defendants and awards $750,000 in damages and an additional $100,000 in punitive damages, as well as reasonable costs and attorney's fees. The Court also finds for Plaintiffs on Count Fifteen and imposes a constructive trust on any Field Navigator software in the Pajemola Defendants' possession containing Field-Comm.net database tables. Finally, the Court permanently enjoins the Pajemola Defendants from using or otherwise disposing of such software. . . .

Assuming arguendo that the Field Navigator software that Maxim Defendants used infringed Plaintiffs' copyright, Plaintiffs did not prove that their claimed actual damages occurred as a result of the infringement. As discussed supra, Plaintiffs did not show that their revenue declined as a result of MEI's use of Field Navigator as opposed to CFS's licensing activities. Moreover, as to the Maxim Defendants, Plaintiffs did not prove that any Field-Comm.net elements were present in the software that CFS licensed to A&M and Berghorst. Finally, Plaintiffs failed to prove adequately their actual damages . . . and while the statute allows a copyright owner to “present proof only of the infringer's gross revenue” in establishing the infringer's additional profits not taken into account in computing actual damages, 17 U.S.C. §§ 504(a)(1), (b), Plaintiffs did not prove that any Maxim Defendant received revenue from Field Navigator. Count Fourteen fails against the Maxim Defendants. . . .

Plaintiffs relied solely on Pajemola Defendants' profits as the measure of their actual damages, see Pls.' Mem. Supp. Mot. Def. Judg. at 18, ECF No. 152-1, and did not show that they suffered damages not reflected in those profits.
MARSHALL V. MARSHALL

Pro se plaintiff Ashanta Marshall filed the above-captioned complaint on November 30, 2015. Plaintiff's request to proceed in forma pauperis ("IFP") is granted for the purpose of this Order. For the reasons that follow, the complaint is dismissed.

LOUIS VUITTON MALLETIER, S.A. V. MY OTHER BAG, INC.
No. 14-CV-3419 (JMF), 2016 WL 70026 (S.D.N.Y. Jan. 6, 2016)

Defendant My Other Bag, Inc. ("MOB") sells simple canvas tote bags with the text “My Other Bag...” on one side and drawings meant to evoke iconic handbags by luxury designers, such as Louis Vuitton, Chanel, and Fendi, on the other. MOB's totes — indeed, its very name — are a play on the classic “my other car...” novelty bumper stickers, which can be seen on inexpensive, beat up cars across the country informing passersby — with tongue firmly in cheek — that the driver's “other car” is a Mercedes (or some other luxury car brand). The “my other car” bumper stickers are, of course, a joke — a riff, if you will, on wealth, luxury brands, and the social expectations of who would be driving luxury and non-luxury cars. MOB's totes are just as obviously a joke, and one does not necessarily need to be familiar with the “my other car” trope to get the joke or to get the fact that the totes are meant to be taken in jest.

Louis Vuitton Malletier, S.A. ("Louis Vuitton"), the maker of Louis Vuitton bags, is perhaps unfamiliar with the “my other car” trope. Or maybe it just cannot take a joke. In either case, it brings claims against MOB with respect to MOB totes that are concededly meant to evoke iconic Louis Vuitton bags. More specifically, Louis Vuitton brings claims against MOB for trademark dilution and infringement under the Lanham Act, 15 U.S.C. § 1125(c); a claim of trademark dilution under New York law; and a claim of copyright infringement. MOB now moves for summary judgment on all of Louis Vuitton's claims; Louis Vuitton cross moves for summary judgment on its trademark dilution claims and its copyright infringement claim, and moves also to exclude the testimony of MOB's expert and to strike the declarations (or portions thereof) of MOB's expert and MOB's founder and principal. For the reasons that follow, MOB's motion for summary judgment is granted and Louis Vuitton's motions are all denied.

Finally, MOB moves for summary judgment with respect to Louis Vuitton's copyright infringement claim. The Court's conclusions above effectively compel the conclusion that any use by MOB of copyrightable elements of Louis Vuitton's prints qualifies as a matter of law as “fair use.”

HAYUK V. STARBUCKS CORPORATION
No. 15CV4887-LTS, 2016 WL 154121 (S.D.N.Y. Jan. 12, 2016)
Maya Hayuk (“Plaintiff”) brings suit against Starbucks Corporation (“Starbucks”) and 72andSunny Partners, LLC (“72andSunny,” together with Starbucks, “Defendants”), asserting five claims of copyright infringement against each Defendant and an additional claim of contributory infringement against 72andSunny. Plaintiff alleges that Starbucks’ Frappuccino advertising campaign infringed upon her copyrighted art works. Defendants have moved to dismiss the Complaint, arguing that, as a matter of law, Defendants’ allegedly infringing works are not substantially similar to Plaintiff’s works.

Applying this standard, the Court finds, as a matter of law, that none of the Frappuccino Works is substantially similar to “the total concept and feel” of protectible elements of any of the Hayuk Works. Although the two sets of works can be said to share the use of overlapping colored rays in a general sense, such elements fall into the unprotectible category of “raw materials” or ideas in the public domain. The far more dominant dissimilarities in the specific aesthetic choices embodied in the particular works distinguish them in total concept and feel and preclude a finding of substantial similarity. For example, Plaintiff demonstrates, through rotating and cropping, that certain angles used in Frappuccino Works create triangular or fan-like patterns that can also be found by studying isolated areas of the Hayuk Works. None of the Frappuccino Works, however, employs those patterns in a work that, like the Universe Works, combines lines and rounded shapes to present a diamond shaped center impression, the component rays of which terminate in rounded shapes containing planet-like circles that surround the central diamond shape. None of the Frappuccino works presents, like Kites #1, an impression of a central quadrilateral formed by intersecting rays and lines. Nor does any of the Frappuccino Works combine physical angles and painted rays and lines to present a total look and feel of diamond shapes intersecting in an inexact manner, as in Plaintiff’s Sexy Gazebo. Plaintiff’s attempt to compare animations of intersecting lines in the Frappuccino Videos with her own static works likewise fails to demonstrate any substantial similarity of the kinetic video images to the total look, concept and feel of any of the Hayuk Works.

YOUNG-WOLFF V. JOHN WILEY & SONS, INC.
No. 12-CV-5230 (JPO), 2016 WL 154115 (S.D.N.Y. Jan. 12, 2016)

Photographer David Young-Wolff (“Plaintiff”) filed this copyright infringement action against John Wiley & Sons, Inc. (“Defendant” or “Wiley”), a publishing company. (Dkt. No. 1.) Following discovery, the parties have filed cross-motions for partial summary judgment. (Dkt. Nos. 85, 90.) For the reasons that follow, both parties' motions are granted in part and denied in part.

At the core of this case is a dispute about whether certain license agreements between Wiley and PhotoEdit had the effect of retroactively extinguishing Plaintiff's claims for copyright infringement. Three questions arise. First, as a matter of law, can an agreement between a licensing agent and a third party retroactively cure claims of infringement asserted against that third party by the exclusive license holder? Second, did the license agreements at issue here, by their own terms, act retroactively? Third, did PhotoEdit, as Plaintiff’s agent, have the authority to convey a retroactive license to Wiley? These questions are addressed in turn.
This action traces its lineage back to an initial suit commenced in 2008. (ECF No. 1 in 08-cv-7722 (LTS).) At that time, plaintiffs/counterclaim defendants David Reeves (“Reeves”) and Reach Music Publishing (“Reach”) brought suit against defendant/counterclaimant Protoons Inc. (“Protoons”) seeking damages and a declaration of copyright ownership of songs Reeves had co-authored for the musical group Run–D.M.C. in the 1980s. (ECF No. 1.) The lawsuit ignored an obvious weakness: Reeves had long before assigned all of his rights in the compositions to an entity called Rush Groove and specifically agreed not to look to Protoons for payment. Reeves and Reach’s original claims were dismissed with prejudice. (ECF Nos. 60 & 61.) The litigation did not end, however, because by then Protoons had asserted counterclaims against Reeves for breach of contract and Reach2 for tortious interference. (ECF Nos. 23 & 68.) The Court granted Protoons summary judgment on its breach of contract counterclaim, (ECF No. 258) and following a bench trial in March 2015 found for Protoons on the tortious interference counterclaim as well. (ECF No. 292.)

Now before the Court is Protoons's motion for damages, legal fees, and expenses, which the parties have submitted for a trial on the papers. (ECF Nos. 309 & 334.) As set forth below, Reeves and Reach are jointly and severally liable3 for the attorney's fees and costs associated with Protoons's defense of the original claims and with its prosecution of the breach of contract counterclaim, but not for those associated solely with prosecuting the tortious interference counterclaim.

On November 30, 2105, this Court issued a Memorandum Opinion and Order (“SJ Order”) resolving the cross-motions of Plaintiff Ellen Senisi (“Senisi” or “Plaintiff”) and Defendant John Wiley & Sons, Inc. (“Wiley” or “Defendant”) for summary judgment. (See Docket Entry Nos. 168, 173, 209.) The SJ Order dismissed 143 of the 153 claims of copyright infringement remaining in this case, relying principally on the invalidity of copyright registration VA 1-429-916, which covered 140 of the claims at issue (the “subject claims”). (See SJ Order.) On December 10, 2015, Senisi filed a letter with the Court seeking “clarification that the dismissal of the claims covered by VA 1-429-916 [was] ... without prejudice.” (See Docket Entry No. 210) (emphasis in original). Wiley opposed Plaintiff's request for clarification. (See Docket Entry Nos. 211-213.) On January 7, 2016, the Court issued a Memorandum Order denying Senisi's request that the dismissal of her claims based on registration VA 1-429-916 be deemed without prejudice. (See Docket Entry No. 214 (“Jan. 7 Order”).)

Senisi filed the instant motion on January 15, 2016, seeking reconsideration of the Jan. 7 Order's holding that dismissal of the claims arising from registration VA 1-429-916 was with prejudice
or, in the alternative, entry of judgment on the ruling dismissing the 140 claims pursuant to Federal Rule of Civil Procedure 54(b) so that Senisi might pursue an immediate appeal. (See Docket Entry Nos. 215, 216 (“Senisi Memo”).) Wiley opposes both requests. (See Docket Entry No. 220 (“Wiley Memo”).)

The Court has carefully considered the parties' submissions and, for the reasons stated below, grants Senisi's motion for reconsideration, vacates the Jan. 7 Order and holds that the 140 claims that had been asserted in connection with registration VA 1-429-916 are dismissed without prejudice.

SORENSON V. WOLFSON
No. 10-CV-4596 (JGK), 2016 WL 1089386 (S.D.N.Y. Mar. 21, 2016)

Before the Court are three motions brought by the defendant, Stanley Wolfson. Wolfson moves (1) for sanctions against the plaintiff Sigurd A. Sorenson under Rule 11 of the Federal Rules of Civil Procedure; (2) for attorneys' fees and costs pursuant to 17 U.S.C. §§ 505 and 1325; and (3) for attorneys' fees and costs pursuant to 28 U.S.C. § 1927 and pursuant to the Court's inherent powers. For the reasons that follow, all three motions are denied.

ELASTIC WONDER, INC. V. POSEY
No. 13-CV-5603 (JGK), 2016 WL 1451545 (S.D.N.Y. Apr. 12, 2016)

This case concerns a dispute over the trademark of a legging brand named “Elastic Wonder.” The original Complaint in this action was brought against the defendant and third party plaintiff Idil Doguoglu Posey by the plaintiff, Elastic Wonder, Inc. (“Elastic Wonder”). The Complaint alleged federal trademark infringement under the Lanham Act, 15 U.S.C. § 1125(a), and cybersquatting under the Anticybersquatting Consumer Protection Act (“ACPA”), 15 U.S.C. § 1125(d), along with related state law claims. Posey, appearing pro se, brought counterclaims against Elastic Wonder and a Third Party Complaint against Spandex House and Sabudh Chandra Nath. Each of the parties claimed the right to use the mark “ELASTIC WONDER” and claimed that the other party violated federal and state law by using that mark. Posey's surviving counterclaims and third party claims are substantially the same claims that had been brought against her by Elastic Wonder, with the addition of copyright infringement claims over the design of the leggings sold by Elastic Wonder.

Posey now moves pursuant to Fed. R. Civ. P. 56(a) for summary judgment in her favor dismissing all claims in the plaintiff's Complaint. The plaintiff and the third party defendants similarly move pursuant to Fed. R. Civ. P. 56(a) to dismiss Posey's claims against them. For reasons explained below, Posey's motion is denied. The plaintiff and the third party defendants' motion is granted. . . .

[T]he footprint or the fitting of leggings is not conceptually separable from the useful article. Here, as in Jovani Fashion, “the aesthetic merged with the functional to cover the body in a
particularly attractive way.” . . . . It is the functional purpose of covering the body in an attractive and comfortable way that motivates the designs of fittings of certain shapes, and the utilitarian function of the leggings as clothing is primary over the ornamental aspect. The designs with regard to the fitting of clothing are therefore not copyrightable, and Posey cannot assert any copyright in such elements of the leggings.

Moreover, the moving parties are also correct that Posey has not obtained or applied for a copyright registration for her purported copyright in the fitting of the leggings. “Copyright registration is a prerequisite to bringing a copyright suit.” . . . Posey's failure to satisfy this precondition of suit requires that her claim be dismissed.

BAIUL V. NBC SPORTS
No. 15-CV-9920 (KBF), 2016 WL 1587250 (S.D.N.Y. Apr. 19, 2016)

This action is the latest of several lawsuits in this Court brought by Oksana Baiul ("Baiul") and her company, Oksana, Ltd., against a variety of entities seeking millions in damages for events that took place decades ago. In recent years, Baiul has initiated a lengthy series of frivolous actions in which she has effectively sought to sue everyone from her past based on essentially the same stale claims. Among Baiul's myriad lawsuits, she previously filed a lawsuit against more than 20 individuals and entities arising from substantially similar allegations to those here; this Court found that suit to be frivolous and wholly without merit, and granted defendants' motion to dismiss on statute of limitations grounds. . . . Baiul also previously brought two related actions against NBCUniversal Media LLC ("NBCUniversal") (among others) arising out of alleged commercial uses of Baiul's name and likeness relating to the same skating shows at issue here; this Court granted defendants' motion for summary judgment on those claims and awarded attorneys' fees to defendants. . . . In all of these actions, Baiul has been represented by the same attorney against whom the Court ultimately imposes sanctions in this case-Raymond J. Markovich.

As the Court previously stated in its February 16, 2016 decision denying plaintiffs' motion to remand this action to the New York State Supreme Court . . . , this particular lawsuit is actually before this Court for the second time, and plaintiffs are currently on their Fourth Amended Complaint ("FAC"). Having twice presided over this action, as well as over Baiul's several prior actions against defendant NBCUniversal and various other entities and individuals, the Court is intimately familiar with the parties and the allegations underlying Baiul's claims. The instant action has the same smell and feel as Baiul's actions previously dismissed by this Court and is just as frivolous.

Pending before the Court are plaintiffs' motion to dismiss this action without prejudice pursuant to Rule 41(a)(2) . . . , and defendant NBCUniversal's motion for judgment on the pleadings pursuant to Rule 12(c) and for sanctions pursuant to 28 U.S.C. § 1927 . . . . Informed by its careful review of the operative pleadings and acute awareness of the history of the dispute between these parties, the Court finds this suit-as was the case with Baiul's several prior suits in this Court-to be frivolous and wholly without merit. It is not in the interests of justice to allow
plaintiffs an opportunity to escape final adjudication of this action by allowing them to withdraw their claims without prejudice for the sole purpose of an opportunity to continue to harass NBCUniversal. Instead, NBCUniversal is entitled to dismissal of plaintiffs' futile claims with prejudice on multiple grounds. Finally, although plaintiffs' counsel now seeks to withdraw from this action in the hopes of avoiding sanctions, given counsel's vexatious conduct that has vastly and unnecessarily multiplied these proceedings throughout this litigation, the Court concludes that sanctions are warranted.

For the reasons set forth below, plaintiffs' motion to dismiss this action without prejudice is DENIED. NBCUniversal's motion for judgment on the pleadings and for sanctions against plaintiffs' counsel is GRANTED. This action is hereby dismissed with prejudice.

As discussed above, the FAC alleges three state law claims for unjust enrichment, conversion/restitution, and accounting on the basis that NBCUniversal (and the other defendants) used and exploited a television motion picture recording entitled "Nutcracker On Ice Starring Oksana Baiul" without entering into a written contract with Baiul or compensating Baiul for her participation. In the Court's February 3, 2016 decision denying plaintiffs' motion to remand, the Court previously stated that although it could not yet rule on the merits of NBCUniversal's preemption argument, there was a strong basis to conclude that plaintiffs' claims are completely preempted by the Copyright Act. Now, with the benefit of full briefing on this issue, for the reasons stated below, the Court concludes that plaintiffs' claims are entirely preempted by the Copyright Act and thus subject to dismissal.

PALMER/KANE LLC V. ROSEN BOOK WORKS LLC
No. 15-CV-7406 (JSR), 2016 WL 3042895 (S.D.N.Y. May. 27, 2016)

In this action, plaintiff Palmer/Kane LLC ("Palmer/Kane") sues defendant Rosen Book Works LLC d/b/a Rosen Publishing Group, Inc. ("Rosen") for copyright infringement in 19 images registered with the U.S. Copyright Office (the "Copyright Office"). Eight of those images are alleged to be registered under Certificate of Registration No. VAu 529-623, with an effective date of June 25, 2001 (the "June 2001 Registration"). Defendant now moves the Court to issue a request to the Copyright Office, pursuant to § 411(b)(2) of the Copyright Act, to advise whether that Office would have refused registration if it knew that certain information included in the underlying registration application was inaccurate. For the reasons explained below, the Court grants the motion.

JOHN WILEY & SONS, INC. V. BOOK DOG BOOKS, LLC
No. 13CIV816WHPGWG, 2016 WL 3176620 (S.D.N.Y. Jun. 6, 2016)

Plaintiffs John Wiley & Sons, Inc., Cengage Learning, Inc., and Pearson Education, Inc. have filed this suit against Book Dog Books, LLC ("BDB") and Philip Smyres, its owner and chief executive officer, alleging claims primarily of copyright and trademark infringement. The
plaintiffs now move for partial summary judgment striking certain defenses asserted by the defendants. For the reasons stated below, plaintiffs' motion should be granted.

BWP MEDIA USA INC. D/B/A PACIFIC COAST NEWS AND NATIONAL PHOTO GROUP, LLC, PLAINTIFFS, V. POLYVORE, INC., DEFENDANT.

This case epitomizes the truism that litigation-like fashion-requires attention to detail. Plaintiffs own a variety of celebrity photographs and allege that Polyvore, Inc., which operates the fashion/style website polyvore.com, infringed on their copyright interests when some of those photographs appeared on Polyvore's website. . . . Plaintiffs have not met their initial burden to present proof of any volitional conduct on behalf of Polyvore, and they are thus unable to establish a prima facie case of copyright infringement. On the sparse record before the Court, Plaintiffs have identified no disputed issue of material fact that prevents Polyvore from being entitled to summary judgment as a matter of law. Polyvore's motion for summary judgment is accordingly granted, Plaintiffs' cross-motion is denied, and this case is dismissed. . . .

I. Direct Infringement. . . . Applying Cablevision and its progeny here, no reasonable juror could find that Polyvore acted volitionally. It is undisputed that images appear on Polyvore's website "without any interaction by Polyvore's employees" and that "[a]ny subsequent indexing, storage or display ... is the result of an automated process that stems from the user's initial upload." . . . [N]othing in the record suggests that Polyvore's Clipper tool was designed specifically to infringe anyone's copyright interests. Without any deposition testimony or documentary evidence from Polyvore employees, the record is ultimately silent on this point. The Clipper tool, moreover, allows users to clip images from anywhere online, not locations that display only copyrighted material. . . . There is thus no dispute that Polyvore users can use the Clipper to clip both copyrighted and non-copyrighted images. Polyvore accordingly "does not have a 'fundamental and deliberate role,' such that it [is] transformed 'from a passive provider of a space in which infringing activities happen[ ] to occur to an active participant in the process of copyright infringement.' " . . .

For these reasons, the Court concludes that Plaintiffs must establish that Polyvore acted volitionally to prove its claim for direct copyright infringement. As no evidence in the record suggests that Polyvore so acted, Polyvore is entitled to summary judgment on Plaintiffs' direct infringement claim as a matter of law. . . .

II. Secondary Liability . . . A. Contributory Infringement. . . . Here, even assuming that Polyvore had knowledge of the infringing activity and materially contributed to copyright infringement, the Sony-Betamax rule shields Polyvore from liability. As noted above, the Clipper tool allows users to clip images from anywhere online, copyrighted or not. These features make Polyvore's system, at the very least, "capable of substantial noninfringing use." . . . Polyvore is accordingly entitled to summary judgment on Plaintiffs' contributory infringement claim.
B. Vicarious Infringement. . . . The evidence in the record does not support either element. The record is devoid of evidence regarding Polyvore's ability to supervise or control the activity of its users. Similarly, no facts in the record establish a causal relationship between any infringing activity on Polyvore's website and any financial benefit Polyvore received. Nor do any facts in the record establish that Polyvore's users are attracted to the site because it enables infringement. Polyvore is thus entitled to summary judgment on Plaintiffs' claim of vicarious infringement.

C. Inducement of Infringement. To be liable for inducing others to infringe copyrights, a defendant must "distribute[] a device with the object of promoting its use to infringe copyright, as shown by clear expression or other affirmative steps taken to foster infringement." . . . "The inducement rule . . . premises liability on purposeful, culpable expression and conduct," such that "mere knowledge of infringing potential or of actual infringing uses would not be enough." . . . No evidence in the record here supports an inference that Polyvore purposefully sought to infringe copyright. The Court thus grants Polyvore summary judgment on Plaintiffs' inducement of infringement claim.

III. Attorneys' Fees. . . . In Kirtsaeng, the Supreme Court instructed that in analyzing requests for fees pursuant to § 505, "courts must view all the circumstances of a case on their own terms, in light of the Copyright Act's essential goals." . . . Taking all those circumstances into account and in light of the Copyright Act's attempt to "balance . . . two subsidiary aims: encouraging and rewarding authors' creations while also enabling others to build on that work," . . . the Court concludes that no award of attorneys' fees is warranted in this case.

SOLID OAK SKETCHES, LLC V. 2K GAMES, INC.

Plaintiff Solid Oak Sketches, LLC ("Solid Oak" or "Plaintiff") brings this action against 2K Games Inc. ("2K Games") and Take-Two Interactive Software, Inc. ("Take-Two" and, collectively, "Defendants"), asserting a claim of copyright infringement pursuant to the Copyright Act of 1976, 17 U.S.C. § 101 et seq. (the "Copyright Act"). Plaintiff seeks to recover actual damages in an amount to be determined at trial, or, in the alternative, statutory damages and attorneys' fees pursuant to 17 U.S.C. §§ 504 and 505, as well as preliminary and permanent injunctive relief.

Now before the Court is Defendants' motion, brought pursuant to Federal Rule of Civil Procedure 12(b)(6), to dismiss Plaintiff's claim for statutory damages and attorneys' fees. The Court has jurisdiction of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a). The Court has reviewed the parties' submissions thoroughly and, for the reasons stated below, grants Defendants' motion in its entirety.

LOUISE PARIS, LTD. V. STANDARD FABRICS INTERNATIONAL, INC.
No. 15 CIV. 3250 (PKC), 2016 WL 4203548 (S.D.N.Y. Aug. 8, 2016)
Plaintiffs Louise Paris, LTD ("Louise Paris"), a wholesale supplier of garments, and Rainbow USA, Inc. ("Rainbow"), a retail apparel company, brought an action seeking a declaratory judgment that they have not produced and sold garments that infringe defendant textile company Standard Fabrics International, Inc.'s ("SFI") purported copyright in a fabric design-Design #7851. In its Answer, SFI filed counterclaims against Louise Paris and Rainbow for copyright infringement pursuant to 17 U.S.C § 101, et. seq. alleging that Louise Paris and Rainbow did create and sell garments that unlawfully copied SFI's Design #7851, which allegedly is protected by a copyright for a work entitled "Spring Summer 2014, Collection 1." SFI now moves for summary judgment on its infringement counterclaims pursuant to Rule 56, Fed. R. Civ. P. Louise Paris and Rainbow oppose summary judgment on grounds that SFI has failed to show that it has valid ownership of a copyright covering Design #7851 or that Louise Paris and Rainbow created and sold garments that look "substantially similar" to Design #7851. Because there are triable issues of fact regarding whether Design #7851 is covered by SFI's copyright in the "Spring Summer 2014, Collection 1," SFI's motion for summary judgment is denied.

RAMS V. DEF JAM RECORDINGS, INC.
No. 15 CIV. 8671 (GBD), 2016 WL 4399289 (S.D.N.Y. Aug. 15, 2016)


Defendant Felton moves to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) the Second Claim for Relief against him for secondary copyright infringement. . . . Felton's motion to dismiss Plaintiffs' Second Claim for Relief for secondary federal copyright infringement pursuant to Rule 12(b)(6) is DENIED.

PALMER/KANE LLC V. ROSEN BOOK WORKS LLC

In this copyright action, plaintiff Palmer/Kane LLC ("Palmer/Kane") brings suit against defendant Rosen Book Works LLC ("Rosen") alleging infringement of plaintiff's copyrights in numerous stock photographs (the "Images"). Both parties sought summary judgment on the 11 remaining Images at issue. At the final pre-trial conference held on August 3, 2016, the Court awarded summary judgment to defendant on plaintiff's claims arising out of defendant's alleged infringement of Image Nos. 1, 8, 10, 12, 15, 16, and 18. In a "bottom-line" Order issued the next day, the Court also awarded summary judgment to defendant on plaintiff's claims arising out of defendant's alleged infringement of Image Nos. 6 and 13. In the same Order, the Court also awarded summary judgment to plaintiff as to infringement on plaintiff's claims arising out of
defendant's use of Image Nos. 2 and 5, leaving the issue of damages flowing from such infringement for trial. This Opinion and Order explains the reasons for those rulings.

In sum, the Court dismisses plaintiff's infringement claims arising from defendant's use of Image Nos. 1, 8, 10, 12, 13, 15, 16, and 18 because those Images are not validly registered with the Copyright Office and because proper registration is a precondition to bringing an action for copyright infringement.

CHEVRESTT V. AMERICAN MEDIA, INC.
No. 16 CIV. 5557 (LLS), 2016 WL 4557318 (S.D.N.Y. Aug. 31, 2016)

Chevrestt claims copyright infringement pursuant to the Copyright Act . . . and violation of integrity of copyright management information ("CMI") pursuant to the Digital Millennium Copyright Act . . . ("DMCA").

Defendant American Media, Inc. ("American") moves to dismiss the complaint pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted. American argues that since Chevrestt applied for, but did not receive, a registered copyright prior to commencing suit, it has failed to plead the valid copyright required for an infringement claim. Further, American argues Chevrestt failed to plead that it acted with the required mental state to constitute a CMI violation claim.

The motion is denied in part and granted in part, with leave to replead.

1. Copyright Registration . . . Chevrestt alleges that he complied with all application requirements. . . . Chevrestt's copyright infringement claim may proceed.

2. DMCA Copyright Management Claim . . . The complaint . . . contains no factual allegations supporting those conclusions (speculations?), such as showing that American was confronted or otherwise made aware of its allegedly infringing action. . . . Since there are no factual allegations supporting an inference that American's CMI alteration or removal was done intentionally, American's motion to dismiss the DMCA claim is granted, with leave to replead within 45 days.

Third Circuit

LEONARD V. STEMTECH INTERNATIONAL INC.

Andrew Leonard, a stem cell photographer, and Stemtech International, Inc., a company that sells nutritional supplements through independent distributors, cross appeal various rulings in the copyright infringement lawsuit Leonard brought against Stemtech in the District of Delaware. For the reasons discussed herein, we will affirm the District Court's pretrial, trial, and post-trial rulings, except the order denying prejudgment interest to Leonard, which we will vacate and remand.
Leonard proved direct infringement by Stemtech distributors. He demonstrated that he owned the copyrights to the infringed images, and that he did not authorize or license the use of his images in Stemtech's advertising, marketing, and training materials. The materials containing his images ranged from webpages and PDFs to videos and a PowerPoint presentation promoting Stemtech products. This evidence provided a sufficient basis for a jury to reasonably conclude that the distributors directly infringed Leonard's copyrights.

1. Contributory Infringement . . . [T]he evidence shows that Stemtech knew of the distributors' infringing activity. Stemtech itself created the materials containing Leonard's images, provided the materials to its distributors, and required the distributors to use the materials. Thus, Stemtech knew of its distributors' infringing activities and plainly took "steps that [we]re substantially certain to result in such direct infringement." . . . We also note that the jury had a basis to conclude that Stemtech knew that the images it provided to its distributors were copyrighted. The jury heard evidence that Stemtech had negotiated with Leonard for a limited-use license of one of his images in the HealthSpan magazine. From this evidence, the jury could infer that, despite knowing that Leonard's images were copyrighted, Stemtech required its distributors to use the images Leonard owned to promote Stemtech's products and thereby materially contributed to or induced their infringement.

2. Vicarious Infringement . . . Stemtech had the right and ability to control the infringing activities of its distributors. Stemtech created and provided marketing materials to its distributors, and required their use. It also had the contractual right to impose a range of disciplinary sanctions on distributors who violated its policies or engaged in illegal behavior, ranging from withholding compensation to terminating a distributorship agreement. Additionally, Stemtech required its distributors to use "official STEMTech replicated templates" and websites that it controlled. . . . To the extent infringements occurred on what Stemtech asserts were unauthorized, independent websites, Stemtech still had the ability to induce compliance by distributors operating these websites by withholding compensation and access to back office support. Stemtech thus had the "practical ability to police the third-party [distributors'] infringing conduct." . . . The evidence of this contractual and financial relationship between Stemtech and its distributors provided a basis for the jury to conclude that Leonard satisfied the right and ability to supervise or control element. . . . The jury could reasonably have credited the testimony from Stemtech officials indicating that images of stem cells lend legitimacy to products that purportedly enhance stem cell production and from this infer that the images could have drawn customers to buy the product, which would financially benefit Stemtech. Thus, there was sufficient evidence from which the jury could find that the financial benefit element was met.

GRANT HEILMAN PHOTOGRAPHY, INC. V. MCGRAW-HILL COMPANIES

In this copyright infringement case, plaintiff's suit claims damages for over 2,000 separate instances of infringement, allegedly arising out of defendant's publication of photographs, for which plaintiff had licensing rights on behalf of various photographers, in defendant's textbooks,
either in excess of the amount of reproductions authorized, or by geographical distribution broader than allowed by the license. The Court held a jury trial in September 2014 which, by agreement of counsel, concerned only 53 claims selected by counsel (the “mini-trial” or “bellwether trial”). Following a jury verdict for plaintiff on September 24, 2014, a number of post-trial motions were filed. Subsequently, the Court filed two extensive Memoranda on post-trial motions, the first on March 20, 2015, 2015 WL 1279502, and the second on June 30, 2015, 2015 WL 3970938. These Memoranda explained the history of the case in some detail, the trial proceedings, and the Court's decisions on various motions resulting in a judgment entered in favor of plaintiff and against Defendant on August 20, 2015 in the amount of $64,634.00 (ECF 269). . . .

As a result of these pretrial proceedings, it now appears that plaintiff is seeking damages for approximately 1,722 separate claims. Defendant has acknowledged liability for all but 130 of these claims. The parties disagree whether there are disputed facts as to these 130 claims and whether the Court can decide if plaintiff is liable for these as a matter of law. The schedule for presentation of this issue is set forth below. The major issue for trial is how to proceed with regard to plaintiff's claims for damages, which defendant does dispute.

BROADCAST MUSIC, INC. V. HIPPOCRATES DELIGIANNIS

Plaintiff, Broadcast Music, Inc. (“BMI”), brought this suit for copyright infringement under the Copyright Act, 17 U.S.C. § 101 et seq, on its own behalf on and on behalf of Concord Music Group, Inc., d/b/a Jondora Music, House of Cash, Inc., Less than Zero Music, Southfield Road Music, Fake and Jaded Music, Sony/ATV Songs, LLC, d/b/a Sony/ATV Melody, Moebetoblame Music, Abkco Music, Inc., EMI Blackwood Music, Inc., and Counting Crows, LLC, d/b/a Jones Fall Music, the owners of the copyrights that are the subject of this action. Plaintiffs contend that Defendants permitted the performance of live music at the Bar-B-Q Pit without obtaining the proper licenses from BMI to allow public performances of said copyrighted music. Plaintiffs seek an injunction against further infringement, and statutory damages for each of eight (8) infringements, along with costs and attorneys' fees. Presently before the Court are the parties' cross-motions for summary judgment, as well as the Amended Motion for Summary Judgment of Defendants, Anna's Bar-B-Q Pit, Ltd. and Anna Deligiannis. For the following reasons, Plaintiffs' Motion for Summary Judgment is granted as to Defendants, Anna's Bar-B-Q Pit, Ltd. and Anna Deligiannis, and denied as to Defendant Hippocrates Deligiannis. The Motions for Summary Judgment of Defendants, Anna's Bar-B-Q Pit, Ltd. and Anna Deligiannis, are denied and the Motion for Summary Judgment of Defendant, Hippocrates Deligiannis is granted. . . .

In sum, I find that Plaintiffs have established liability against Anna's Bar-B-Q Pit, Ltd., and Anna Deligiannis on all five elements necessary to prove copyright infringement. Accordingly, I will grant summary judgment in favor of Plaintiffs and against Defendants Anna's Bar-B-Q Pit, Ltd., and Anna Deligiannis on the copyright infringement claim. Further, I will deny the Motions for Summary Judgment of Defendants, Anna's Bar-B-Q Pit, Ltd., and Anna Deligiannis, and will
grant summary judgment in favor of Defendant, Hippocrates Deligiannis, on the copyright claims. . . .

I will also grant Plaintiffs' request for a permanent injunction and award Plaintiffs $6,000.00 in damages and $20,190.00 in costs and attorneys' fees.

CLARITY SOFTWARE, LLC V. FINANCIAL INDEPENDENCE GROUP, LLC

Presently pending before the Court is a motion by Defendant Financial Independent Group, LLC ("FIG") for recovery of costs and attorney fees . . . following entry of summary judgment in its favor and against Plaintiff, Clarity Software, LLC ("Clarity"). . . .

Based on the foregoing, the Court concludes that the totality of factors counsels against an award of counsel fees in this case. Defendant's motion for recovery of costs and attorney's fees will therefore be denied with respect to Defendant's request for counsel fees. The Court will, however, grant the motion in part as it relates to Defendant's request for recovery of certain costs as enumerated above, and denied in all other regards. An appropriate Order will issue.

ADTILE TECHNOLOGIES INC. V. PERION NETWORK LTD.

At Wilmington this 23rd day of June, 2016, having reviewed the papers filed in connection with Adtile's motion for preliminary injunction, and having heard oral argument on same; IT IS ORDERED that Adtile's motion (D.I. 11) is denied, for the reasons that follow: . . .

In the case at bar, a review of the parties' briefing and evidence reveals that Adtile registered the copyright for the handphone image on June 19, 2015. . . . Undertone had access to the handphone image during the period of licensing. Such image (without any attribution) was provided to Undertone in two of the Motion Ads Adtile created under the License Agreement (the Nestle Perrier Motion Ad created in November 2014, and Estee Lauder ad created in December 2014). . . . Undertone then used the handphone image in the Discover ad. After receiving a cease and desist letter, Undertone took down both the Nestle Perrier and Discover ads and discontinued use of the handphone image. Although neither party further analyzed the Google search results to determine if any of the handphone icons were created or existed prior to 2014, such an argument is reasonable given the ubiquity of cellphones in 2014. At the present time, defendants are not using the handphone image, rendering any argument as to ongoing harm to Adtile moot.

As to the Full-Tilt Library software, Adtile states that the "analysis of Undertone's ads revealed that the source code for such ads copy the copyrighted software." . . . Again, Adtile does not explain how it distinguishes the copyrighted "version" from the public open-source "version." As with the handphone image, Undertone has represented that it does not currently use the Full-Tilt Library software.
IN RE NORTEL NETWORKS INC.

On February 8, 2016, the Court issued its Memorandum Opinion and Order on the parties cross-motions for summary judgment. D.I. 359 and 360. Defendant Nortel Networks Inc. and affiliated debtors ("Nortel") have asked the Court for clarification of its ruling1. SNMP Research, Inc. and SNMP Research International, Inc. (collectively, "SNMP") argue that Nortel's request is an improper request for reargument, but have also requested clarification. . . . This adversary proceeding presents what the Court believes is a unique situation. There is no question that Nortel infringed by transferring SNMP's software to purchasers in the Business Line Sales. The software was embedded in product. At the same time, there is a serious question if Nortel profited from the infringement. Nortel appears not to have received compensation for SNMP profited from the infringement. Nortel appears not to have received compensation for SNMP software from the Business Line Sales and the purchasers thereafter entered into license agreements with SNMP. The profit question, however, remains a question of fact.

Fourth Circuit

Court of Appeals for the Fourth Circuit

UNITED STATES V. BATATO
No. 15-1360, 2016 WL 4254916 (4th Cir. Aug. 12, 2016)
The claimants in this case appeal from the district court's entry of default judgment for the government in a civil forfeiture action against funds deposited in the claimants' names in banks in New Zealand and Hong Kong. Default judgment was entered after the government successfully moved to disentitle the claimants from defending their claims to the defendant property under the federal fugitive disentitlement statute, 28 U.S.C. § 2466. The claimants appeal the judgment on several grounds, most prominent among them that the district court lacked jurisdiction over the defendant property because it resides in foreign countries, that fugitive disentitlement violates constitutional due process, and that disentitlement in this case was improper because the claimants are not fugitives from the law. Finding these arguments unpersuasive, we affirm the district court.

Eastern District of Maryland

MALIBU MEDIA, LLC V. [REDACTED]
Malibu Media, LLC ("Malibu"), sued the defendant for copyright infringement under 17 U.S.C. §§ 101 et seq. The defendant has failed to respond to the complaint. Malibu sought and received, pursuant to Rule 55 of the Federal Rules of Civil Procedure, an order of default. Pending before the court is Malibu's motion for entry of default judgment. (Mot. Default J., ECF No. 17). For the reasons that follow, the motion will be granted. . . .
For the foregoing reasons, Malibu's motion for default judgment will be granted. The court will award statutory damages in the amount of $95,250 and costs and attorneys' fees in the amount of $1,632. Further, Malibu's requests for a permanent injunction and an order instructing the defendant to destroy all infringing copies of the plaintiff's work will be granted.

ALDMYR SYSTEMS, INC. V. FRIEDMAN

This case, ostensibly seeking damages for copyright infringement under federal law and misappropriation of trade secrets under state law, is in reality an effort to wage a state-based domestic relations battle in federal court. The decision to dismiss the case, given that the case should never have been pursued outside the domestic litigation in state court, is easily made.

The more challenging question is the extent to which the filing of this suit in federal court should trigger sanctions under Federal Rule of Civil Procedure II against the corporate Plaintiffs, Plaintiffs' de facto controlling shareholder and CEO, and Plaintiffs' counsel.

CORNELL D.M. JUDGE CORNISH V. BALTIMORE CITY, ET AL.

Pending before the Court is Plaintiff's, Cornell D.M. Judge Cornish, Motion for Reconsideration. (ECF No. 24). The Motion is ripe for disposition. No hearing is necessary pursuant to Local Rule 105.6 (D.Md. 2014). For the reasons outlined in specific detail below, the Motion for Reconsideration will be denied. . . .

[T]he Court has reviewed Plaintiff's pleadings. It simply remains too difficult to discern the causes of action alleged. To the extent Plaintiff alleges copyright infringement, she "must prove that she owned a valid copyright." . . . Plaintiff concedes, however, that she does not own a valid copyright. . . . To the extent Plaintiff alleges a violation of the First Amendment, "there is no constitutional right to copyright registration." . . . To the extent Plaintiff alleges any discernable state law torts, her claims are not supported by legally sufficient factual allegations, but rely on mere "labels and conclusions."

SINCLAIR BROADCAST GROUP, INC. V. COLOUR BASIS, LLC

Sinclair Broadcast Group, Inc. ("SBG") has brought this declaratory judgment action against Colour Basis, LLC ("CB") and Christi Schreiber (collectively, "the defendants" or "counterclaimants"), requesting, inter alia, that the court find that SBG has not infringed CB's copyright. CB and Schreiber have brought counterclaims against SBG, Scott Livingston, and Samantha Dinges (collectively, "the counter-defendants"), alleging copyright infringement, circumvention of copyright protection systems, fraudulent inducement, and unfair competition.
Now pending before the court are the counter-defendants' motion for summary judgment, and the defendants' motion for leave to file a surreply. . . . For the reasons that follow, the counter-defendants' motion for summary judgment will be granted in part and denied in part, and the defendants' motion to file a surreply will be denied as moot. . . .

Here, it is undisputed that SBG, the licensee, requested the creation of the Style Guide, which CB, the licensor, created and delivered. Accordingly, only the third prong of the Effects Associates test is at issue. The first Nelson-Salabes factor indicates neither an intent to grant nor an intent to deny a license without CB's future involvement. On the one hand, CB had done work for various SBG affiliates over the course of approximately two years. On the other hand, these jobs were negotiated individually with the stations; SBG's invitation for Schreiber to present at the January 2013 conference appears to have been a one-time request; and there is an issue of fact, discussed further below, as to whether the Style Guide was to be part of a package that included a group deal between SBG and CB . . . . The second factor favors SBG. There is no written contract between the parties, and CB's invoice—the only written document that exists related to the Style Guide aside from emails—indicates no terms associated with the project, other than that payment was "[d]ue on receipt." . . . For the third factor, the court is sympathetic to many of SBG's arguments. Ultimately, however, the summary judgment standard mandates that this court credit CB's version of the facts, and Schreiber claims that, in the controverted phone call at the end of March or the beginning of April 2013, she made clear to Livingston that she was accepting his lowered price proposal only because SBG would be required to pay for additional licenses and printed copies of the Style Guide, and SBG's use of the Style Guide would be accompanied by CB's services as part of a group deal. . . . Further, Schreiber's email with her original cost proposal specifically said that her suggested price would include 400 printed copies and 400 PDF licenses, . . . , and a follow-up email the next week about a PDF-only Style Guide also mentioned licenses, . . . , suggesting she did not anticipate granting an implied nonexclusive license to SBG, at least not one with the scope SBG contemplates. To the extent the counter-defendants argue that CB's inaction in the face of SBG's use of the Style Guide argues for an implied nonexclusive license, again, at least one version of the facts according to CB dictates otherwise. In particular, Schreiber claims that Livingston, when he called about Dinges, said that SBG's relationship with CB would not change, and his company would continue to use CB's consulting services. Assuming these facts to be true, and recognizing also that Schreiber continued to reach out to SBG stations after this phone call, if not to Livingston himself, the court at this stage cannot find as a matter of law that SBG possessed an implied nonexclusive license to the Style Guide. Accordingly, the counter-defendants' motion for summary judgment regarding the implied nonexclusive license will be denied. . . .

In their counterclaims, the counterclaimants allege that SBG, Livingston, and Dinges "willfully removed the password protection and print disabling technological measures that controlled access to the copyright protected Style Guide." . . . Because, however, the counterclaimants gave the counter-defendants access to the copyrighted work, the PDF Style Guide, they cannot make out a violation of the DMCA. Further, the evidence of the alleged circumvention—the email attached to Schreiber's affidavit from AlphaGraphics, the firm CB says added password protections to the Style Guide—is inadmissible hearsay. . . . To be entitled to consideration on summary judgment, facts set forth in affidavits must be such as "would be admissible in
While properly authenticated e-mails may be admitted into evidence under the business records exception, ... an e-mail created within a business entity does not, for that reason alone, satisfy the business records exception of the hearsay rule. ... Without providing more of a basis to establish that it was kept as part of the business's regular operations, the AlphaGraphics e-mail cannot be admitted under an exception to the hearsay rule. Id. Finally, the counter-defendants said they had no difficulty printing the Style Guide, and defense counsel at the hearing cited no evidence as to how the circumvention allegedly occurred. Accordingly, the counter-defendants' motion for summary judgment on the counterclaimants' circumvention claim will be granted.


Plaintiff Under A Foot Plant, Co. ("plaintiff" or "UAFP") moves for partial summary judgment on the issue of liability in this copyright infringement case against defendant Exterior Design, Inc. ("defendant" or "EDI"). Currently pending before the court are: (1) Defendant Exterior Design, Inc.'s Motion for Judgment on the Pleadings and to Strike ("Defendant's Motion") ... ; (2) Plaintiff Under A Foot Plant, Co.'s Motion for Partial Summary Judgment ("Plaintiff's Motion") ... ; (3) Defendant's Response in Opposition to Plaintiff's Motion ("Defendant's Response") ... ; (4) Plaintiff's Response in Opposition to Defendant's Motion ("Plaintiff's Response") ... ; (5) Defendant's Reply to Plaintiff's Response in Opposition ("Defendant's Reply") ... ; and (6) Plaintiff's Reply to Defendant's Opposition ("Plaintiff's Reply") ... . For the reasons stated below, Plaintiff's Motion is GRANTED IN PART and DENIED IN PART, and Defendant's Motion is GRANTED IN PART and DENIED IN PART.

1. Plaintiff's Ownership ... In sum, through its registration of the brochure and website, through its subsequent registration of the twenty-one individual images, and in the absence of any evidence to the contrary, the court finds that there is no genuine dispute of material fact as to plaintiff's ownership of a valid copyright in the twenty-one images. Accordingly, plaintiff is entitled to summary judgment on the first element of its copyright infringement claim.

2. Defendant's Copying ... Plaintiff has not produced sufficient direct evidence of defendant's copying so as to warrant summary judgment. The mere suggestion that "[t]his Court need only look at Defendant's websites and other marketing material to see confirm [sic] what should be an uncontroverted fact," does not by itself prove that defendant had access to or copied the protected works. ... While the publication of the images on plaintiff's website undoubtedly made them available for anyone to access, plaintiff has not produced evidence that defendant accessed the website.11 As plaintiff has not produced direct evidence "that the paths of the infringer and the infringed work crossed," plaintiff is not entitled to summary judgment on this theory of defendant's copying.
Contrary to defendant's argument, the court finds that the similarities between twelve (12) of plaintiff's and defendant's works are sufficiently overwhelming as to preclude the possibility of independent creation.

Preemption . . . Accordingly, defendant's motion for judgment on the pleadings as to plaintiff's state law unfair competition (Count Two) and unjust enrichment (Count Three) claims is GRANTED, and these claims shall be dismissed.

Eastern District of North Carolina

SAS INSTITUTE, INC., PLAINTIFF, V. WORLD PROGRAMMING LIMITED, DEFENDANT.
No. 5:10-CV-25-FL, 2016 WL 3920203 (E.D.N.C. Jul. 15, 2016)

This matter comes before the court on defendant's motion for attorney's fees, made pursuant to 17 U.S.C. § 505. (DE 571). Plaintiff has responded in opposition and defendant has replied. The motion is ripe for ruling. For the reasons that follow, the court denies defendant's motion.

Middle District of North Carolina

OLIVARES V. UNIVERSITY OF CHICAGO
No. 1:15CV713, 2016 WL 126757 (M.D.N.C. Jan. 11, 2016)

This matter is before the Court upon Defendants Margaret Greer (“Professor Greer”) and Elizabeth Rhodes' (“Professor Rhodes”) (collectively “Defendants”) Opposed Motion to Compel Interrogatory Responses from Plaintiff Julián Olivares (“Professor Olivares” and “Plaintiff”). (Docket Entry 59.) . . .

Professors Greer and Rhodes seek complete responses to Interrogatories 2 and 3 which state the following:
2. By page and line number, identify each portion of any work identified in response to Interrogatory No. 1 that constitutes the original authorship of Olivares.
3. By page and line number, identify each portion of The Greer/Rhodes Work that constitutes the original authorship of Olivares.

Defendants Greer and Rhodes contend that Plaintiffs responses are insufficient, mainly because Professor Olivares' book “contains work that [he] does not even claim to have created” and that Professor Olivares' “edition consists largely of text written centuries ago by María de Zayas y Sotomayor.” (Defs.' Mot. at 4, Docket Entry 59.) Defendants further contend that Professor Olivares only has “exclusive rights in his original, creative contribution (if any),” and “no exclusive rights in Zayas' original text,” thus Professor Olivares should distinguish between his contributions and that of the original Zayas text. (Id. at 4, 6.) Plaintiff contends that Interrogatories 2 and 3 do not ask for such information, thus “Olivares cannot be ordered to answer interrogatories that were not asked.” (Pl.'s Resp. Br. at 3, Docket Entry 63.) Professor Olivares further contends that he has answered the interrogatories by identifying his entire work. (Id.) . . .
At this stage, the Court finds Plaintiffs supplemental responses to be sufficient based upon the questions posed in the interrogatories. Plaintiff identifies his entire novel as original authorship, and identifies chapters and sections of his novel alleged to be infringed upon by Defendants. Professors Greer and Rhodes may disagree with Plaintiff's response, but the Court finds that Professor Olivares did fairly answer the interrogatories in his supplemental response. Thus, the Court need not address Plaintiff's original objections to the interrogatories. Defendants' motion to compel is denied.

Eastern District of Virginia

TAX INTERNATIONAL, LLC V. KILBURN AND ASSOCIATES, LLC

Before the Court are Defendants' Motions to Dismiss, ECF Nos. 4 and 10. On March 26, 2015, Plaintiff Tax International, LLC filed this lawsuit alleging copyright infringement, trademark infringement, false designation of origin, trade secret misappropriation, unfair competition, tortious interference with business expectancy, and breach of contract against Defendants Kilburn and Associates, LLC, Rasheme A. Kilburn, and Lance Taylor. The Court today addresses two separate Motions to Dismiss: Defendant Lance Taylor's Motion to Dismiss the Complaint against him in its entirety with prejudice (ECF No. 4) and Defendants Kilburn and Associates, LLC, and Rasheme A. Kilburn's Motion to Dismiss the Complaint against them in its entirety and with prejudice. The Court has reviewed the parties' submissions, the Complaint, relevant attachments, and relevant law. Having determined that a hearing on the Motions is not necessary, this matter is now ripe for judicial determination. For the reasons stated below, each Defendant's Motion to Dismiss is DENIED.

Plaintiff has alleged facts sufficient to state a cause of action for copyright infringement. Plaintiff alleges that it is the owner of a valid copyright, and this Court on a Motion to Dismiss assumes that to be true. Further, courts recognize that by alleging a valid copyright a Plaintiff establishes the first prong of the copyright infringement test. Second, Plaintiff has sufficiently alleged that Defendants copied and published certain portions of Plaintiffs copyrighted works without authorization of Tax International. ECF No. 1 ¶ 49. Additionally, Plaintiff alleges that Defendants had offered and provided tax preparation services that included usage of forms that appear to be exactly like the forms used by Tax International, which Plaintiff alleges are “substantially identical to Tax International's copyright-protected materials.” Id. ¶ 50. These allegations are sufficient to state a claim upon which relief can be granted.

BMG RIGHTS MANAGEMENT (US) LLC V. COX COMMUNICATIONS, INC.

This case presents the question of whether a conduit internet service provider may be held liable for the infringing activity of its subscribers based on the uploading and downloading of copyrighted musical works using BitTorrent, a peer-to-peer file sharing network. The plaintiff in this action, BMG Rights Management (US) LLC (“BMG”), seeks to hold Cox Communications,
Inc. and CoxCom, LLC (collectively, "Cox") secondarily liable for the reproduction and distribution of 1,397 musical composition copyrights by users of Cox's high-speed internet service between February 2, 2012 and November 26, 2014. After a two-week trial, a jury found Cox not liable for vicarious infringement, but liable for willful contributory infringement. The jury awarded BMG $25 million in statutory damages.

Pending before the Court are the parties' post-trial motions. Cox moves for judgment as a matter of law or, alternatively, for a new trial. (Dkt. No. 760). BMG seeks judgment as a matter of law on its claim of vicarious infringement as well as permanent injunctive relief. . . . For the reasons that follow, the Court will deny all of the motions and enter final judgment in accordance with the verdict.

_Fifth Circuit_

ROGERS V. RAYCOM MEDIA, INC.
No. 14-31074, 2016 WL 125321 (5th Cir. Jan. 11, 2016)

Edgar L. Rogers appeals the dismissal for failure to state a claim of his pro se civil suit alleging that the defendants conspired to violate his federal and state rights in numerous ways. . . . Rogers's claim that the defendants conspired to violate his copyright contains only conclusory allegations that the defendants copied protected material. See id.; General Universal Sys., Inc. v. Lee, 379 F.3d 131, 141–42 (5th Cir.2004). Indeed, the allegations of conspiracy, upon which all of his claims are based, are entirely conclusory. See Taylor, 296 F.3d at 378. The district court, therefore, did not err by dismissing Rogers's suit. Nor did the district court err by denying Rogers the opportunity to amend his complaint, since his pleadings below and in this court show that Rogers had already pleaded his “best case.” Bazrowx v.. Scott, 136 F.3d 1053, 1054 & n. 7 (5th Cir.1998) (per curiam) (citing Jacquez v. Procunier, 801 F.2d 789, 792–93 (5th Cir.1986)).

GOOGLE, INC. V. HOOD
No. 15-60205, 2016 WL 1397765 (5th Cir. Apr. 8, 2016)

Mississippi's Attorney General, James M. Hood III, believes that internet giant Google may be liable under state law for facilitating dangerous and unlawful activity through its online platforms. Hood's conflict with Google culminated in his issuance of a broad administrative subpoena, which Google challenged in federal court. The district court granted a preliminary injunction prohibiting Hood from (1) enforcing the administrative subpoena or (2) bringing any civil or criminal action against Google “for making accessible third-party content to internet users.” Hood appeals, arguing that the district court should have dismissed Google's suit on a number of threshold grounds, and in any event erred in granting injunctive relief. Expressing no opinion on the merits, we vacate the injunction.

[Ed. Note: While this is not a copyright infringement decision, the underlying issues relate to copyright and the opinion includes an extended discussion of that issue.]
The remaining issue in this copyright-infringement action is whether TGS is entitled to an award of the attorney's fees and costs it incurred and, if so, how much. TGS seeks $170,706.00 in attorney's fees and $236.95 in costs. (Docket Entry No. 45). Geophysical has responded, and TGS has replied. (Docket Entry Nos. 46, 47, 50). Based on the motion, response, and reply; the record; and the applicable law, the court grants in part and denies in part TGS's motion, awarding $132,888.00 for the fees it reasonably expended in defending this action, and $236.95 in taxable costs.

WORKSTEPS, INC. V. PROGRESSIVE HEALTH REHABILITATION, INC.

Before the Court are Plaintiff's Motion for Partial Summary Judgment [Dkt. #23] and Defendants' Motion to Allow Discovery Under Rule 56(b) [Dkt. #33]. The undersigned conducted a hearing on the motions, at which the parties were represented by counsel, on Thursday, January 7, 2016. After considering the argument presented at the hearing and reviewing the pleadings, the relevant case law, as well as the entire case file, the undersigned issues the following Report and Recommendation to the District Court.

In this case, Progressive Health has demonstrated in its Response and in its Motion to Allow Discovery that material fact issues exist as to key elements of liability in this case. It may well be that summary judgment is appropriate on some or all of the issues raised by WorkSteps once the underlying factual record has been developed, but there are contested issues of fact as to the scope of copyright protection, the statute of limitations, and even whether Progressive Health created the documents alleged to infringe WorkSteps' copyright. On this record, further discovery is necessary before any meaningful consideration of the summary judgment motion can be had.

BROADCAST MUSIC, INC. V. HOMESTEAD CLUB VENTURES, LLC

Before the Court is the Motion for Summary Judgment (Instrument no. 30) of Broadcast Music Inc. et al. (BMI); the Motion seeks judgment against Defendants Homestead Club Ventures, LLC d/b/a Rose Country Club, Patricia F. Kupritz and Hylton Kupritz.

According to the Defendants, the lack of a license to authorize the public performance of copyrighted materials is undermined by the implied authority they have by virtue of the Parties' agreement to agree to a license pending the resolution of the occupancy issue. This Court disagrees. It is beyond dispute that an agreement to agree is unenforceable unless it is definite and certain upon all subjects to be embraced in the future in agreement.
ABA Copyright Division
http://apps.americanbar.org/dch/committee.cfm?com=PT030000

The Defendants next argue that they cannot be held vicariously liable for infringement. Hylton Kupritz admits that he had a direct financial interest in and the authority to manage the Rose Country Club. Those undisputed facts establish the elements of vicariously liability in an infringement action, . . . , but, in an attempt to avoid litigation, Hylton Kupritz "denies that he authorized or declined to stop the alleged infringement." The Court will not condone this attempt for at least three reasons. First, almost one year after the October 2010 contact by BMI about the need for a license the Club was advertising that karokee was available every Thursday, Friday and Saturday. Second, the claims pursued by BMI are based solely upon five songs witnessed by BMI's investigator on October 20, 2011. Third, Hylton Kupritz has previously sworn that on some unidentified occasion a live band, albeit at a customer's persistent requests, performed infringing music at the Club. It is apparent Hylton Kupritz knew that periodic infringement was occurring, but even ignorance of the infringing performances would not "blunt vicariously liability."

JANE ENVY, LLC V. INFINITE CLASSIC INC.

Before the Court is a Motion for Summary Judgment filed by Plaintiff Jane Envy, LLC ("Plaintiff" or "Jane Envy"). (Dkt. # 69.) On February 22, 2016, the Court heard oral argument on the Motion. Daniel Harkins, Esq., appeared at the hearing on behalf of Plaintiff; Jim Darnell, Esq., local counsel for Defendants Infinite Classic Inc. and Baek H. Kim (collectively, "Defendants" or the "Infinite Defendants") did not make an appearance. After reviewing the Motion and the supporting and opposing memoranda, and considering the parties' arguments at the hearing, the Court GRANTS IN PART AND DENIES IN PART Plaintiff's Motion for Summary Judgment. . .

Beginning in late 2013, Plaintiff learned that Infinite was allegedly selling unauthorized copies of jewelry items from Jane Envy's copyrighted collections using an online store. . . . Plaintiff's Amended Complaint claims that Infinite is selling unauthorized copies of at least twenty-two jewelry items from seven of its copyrighted jewelry collections. . . . Plaintiff's Amended Complaint alleges seven counts of copyright infringement for seven of its twelve copyrighted jewelry collections, and associated claims for damages under 17 U.S.C. § 504. . . . Plaintiff's Amended Complaint also alleges a cause of action for other, non-specific infringements of Jane Envy's copyrights by the Infinite Defendants. . . .

The Court DENIES the motion with respect to Jane Envy Item Nos. 7599N-SL, 7600N-SL, 7599N-GD, 7546N-IV, 7616E-IV-GOLD, and 8105E for failure to satisfy the originality requirement. The claims related to these items are DISMISSED WITH PREJUDICE.

The Court DENIES the motion with respect to Jane Envy Item No. 7789N–INFINITY due to the insufficiency of the evidence before the Court. The Court DENIES the motion with respect to Jane Envy Item Nos. 7682N-GD, 7891N-TQ-CROSS, 7891N-IV-CROSS-GD, 7728E-IV-
The Court GRANTS Plaintiff's claim for copyright infringement with respect to Jane Envy Item Nos. 8076N-HOPE, 8076N-BLESSED, 8076N-DREAM, 8076N-FAITH, 8076N-LOVE, finding that the allegedly infringing Infinite Classic Items are so strikingly similar that no genuine issue of material fact exists regarding infringement of these items. The Court awards statutory damages in the amount of $120,000.00 pursuant to §§ 504(c)(1) & (c)(2).

The Court further DISMISSES WITHOUT PREJUDICE Plaintiff's claim for copyright infringement of Registration No. VA-1-872-140, as well as Plaintiff's general claim for copyright infringement of its copyrightable designs.
modification order contained herein. Defendants' motion is DENIED in all respects, except that it is GRANTED IN PART insofar as it seeks an order scheduling Ellsworth's deposition.

**DAVINCI EDITRICE S.R.L. V. ZIKO GAMES, LLC**  

The plaintiff, DaVinci Editrice S.R.L., sued Yoka Games and its United States distributor, ZiKo Games, LLC, alleging that Yoka's card game, Legends of the Three Kingdoms ("LOTK"), copied protected features of DaVinci's card game, Bang! DaVinci asserted claims against Yoka and ZiKo under the Copyright Act of 1976 and Texas unfair competition law.

The undisputed summary judgment evidence shows that Bang!'s characters, roles, and interactions are not substantially similar to those in LOTK. The aspects of the roles, characters, and interactions that are similar are not expressive, and aspects that are expressive are not substantially similar. ZiKo and Yoka are entitled to summary judgment of noninfringement.

**ALFA LAVAL INC. V. FLOWTREND, INC.**  
No. CV H-14-2597, 2016 WL 2625068 (S.D. Tex. May. 9, 2016)

This case is before the Court on the Motion for Partial Summary Judgment [Doc. # 56] filed by Plaintiff Alfa Laval, Inc. ("Alfa Laval"), to which Defendants Flowtrend, Inc. ("Flowtrend"), Joseph Allman, Jan Hansen and Steven Stovall filed a Response [Doc. # 63], and Plaintiff filed a Reply [Doc. # 71]. Also pending is Defendants' Motion for Summary Judgment [Doc. # 59], to which Plaintiff filed an Opposition [Doc. # 66], and Defendants filed a Reply [Doc. # 67].

Having reviewed the record and the applicable legal authorities, the Court grants Defendants' Motion for Summary Judgment as to the Copyright Act claim.

In this case, Alfa Laval has admitted that it was aware as early as 2009 that the Copyrighted Materials were on Flowtrend's website. By May 2010, Alfa Laval knew that a customer of affiliate Alfa Laval Benelux had downloaded the Copyrighted Materials from Flowtrend's website. Plaintiff did not file this lawsuit until September 9, 2014, well beyond the three-year statute of limitations.

There is no evidence that Defendants engaged in new acts of copyright infringement after it originally posted the Copyrighted Materials on its website, which occurred by 2009. There is no evidence cited by Plaintiff to suggest that Defendants reposted the Copyrighted Materials after the original posting in 2009. Although others may have downloaded the Copyrighted Material after that date, Defendants are "only liable for [their own] acts of infringement committed within three years prior to Plaintiff's lawsuit."

Plaintiff's claim under the Copyright Act is barred by the applicable three-year statute of limitations. As a result, Defendants are entitled to summary judgment on the claim. For the same reason, Plaintiff's motion for summary judgment on the Copyright Act claim is denied.
Before the Court is the Motion for Summary Judgment ("MSJ"), (Doc. 16), filed by Hallmark Cards, Inc. ("Hallmark" or "Defendant"). Ms. Telisha M. Cain ("Cain" or "Plaintiff") has countered with the Memorandum in Opposition to Summary Judgment ("Opposition"). (Doc. 20.) Hallmark has responded with a Reply Memorandum in Support of Motion for Summary Judgment ("Reply"). (Doc. 22.) The crux of the dispute between Plaintiff and Defendant (collectively, "Parties"), as articulated in the MSJ, Opposition, and Reply (collectively, "Motions"), is a twenty-line poem, penned in free verse, by two seemingly different hands seven years apart.

Briefly summarized, the MSJ advances a simple argument based on a single asserted fact, one supported by the affidavits, drafts, and other materials appended as exhibits to this dispositive motion. Because an employee of Hallmark, Ms. Diana Manning ("Manning"), wrote a certain poem ("Hallmark's Poem") in 1998 in her capacity as one of Defendant's many contract writers and her employer commenced utilizing it in 1999, Hallmark could not have copied Plaintiff's substantively identical version ("Plaintiff's Poem"), first written in 2005 and published on May 19, 2005. Based on this uncontroverted fact, Hallmark cannot be liable for copyright infringement in violation of the Copyright Act of 1976 ("Act").1 With Plaintiff having provided no evidence to dispute this central claim, she has failed to clear the minimum hurdle set forth in Federal Rule of Civil Procedure 56,2 and Defendant merits summary judgment in its favor. Naturally, Plaintiff contends otherwise. Conceding that she created and published Plaintiff's Poem no earlier than the spring of 2005 on www.poetry.com ("Website"), she nonetheless contends that she is the rightful owner of Hallmark's Poem, her uncontested copyright having been infringed by Defendant's nearly indistinguishable poem.

On this issue, the Act, as originally written and as long construed, is clear. A plaintiff alleging copyright infringement bears the burden of proving not only ownership of a valid copyright but also the copying by the relevant defendant of constituent elements of an original work that has been so protected. As Plaintiff has not provided more than conclusory assertions and unsubstantiated allegations regarding these threshold requirements after the end of fact discovery, no evidence for the non-movant on essential elements of her claim can be mined from a now closed record. As a matter of law, however, Rule 56 demands more than a scintilla. For these reasons, as more fully detailed below, the MSJ must be granted.

Sixth Circuit

Court of Appeals for the Sixth Circuit

BRUMLEY V. ALBERT E. BRUMLEY & SONS, INC.
No. 15-5429, 2016 WL 2848668 (6th Cir. May. 16, 2016)

Albert Brumley, author of the gospel song "I'll Fly Away," assigned the song's copyright to his son Robert. That is something federal copyright law allows. During the term of a copyright, an
author has relatively free rein: He may use it himself, he may assign or sell it to someone else, or he may license it to another. . . .

Robert may have thought that he would retain control of the copyright as long as it (and he) existed. Federal copyright law says otherwise. One of "the more unusual provisions in the Copyright Act," . . . allows songwriters (or their descendants) to terminate the songwriter's assignment of a copyright to another party . . . . Termination allows the descendants to reap anew the profits from the copyright, a fruitful option if the author's work increases in value over time. Four of Brumley's six children now attempt to terminate his assignment to their brother, Robert. Because the four children have complied with the Copyright Act in exercising this right, we (like the district court) uphold their termination.

SONY/ATV PUBLISHING, LLC V. MARCOS
No. 15-6108, 2016 WL 3194697 (6th Cir. Jun. 9, 2016)

This appeal challenges a preliminary injunction enjoining karaoke recording distributor 1729172 Ontario, Inc. and its president (collectively Ontario) from using musical compositions to which Sony/ATV Publishing, LLC and EMI Music Publishing, Ltd. (collectively Publishers) claim various ownership interests. Discerning no abuse of discretion, we uphold the injunction.

TARYN MURPHY; CHRIS LANDON, PLAINTIFFS-APPELLANTS, V. SERGEY LAZAREV. DEFENDANT-APPELLEE.

The instant appeal arises out of several claims brought by Taryn Murphy and Chris Landon (plaintiffs) against Sergey Lazarev, who the plaintiffs allege infringed their copyright to "Almost Sorry," a song they co-authored. In a prior appeal, noting that the plaintiffs never entered into any agreement with Lazarev, we concluded that as a result of several agreements between Lazarev and Style Records (Style), a Moscow-based record label, and between Style and the plaintiffs, Lazarev had a valid sublicense to record and perform "Almost Sorry" from 2006 until May 2013. Therefore, he did not infringe plaintiffs' copyright. Thereafter, the district court granted Lazarev's motion for attorneys' fees and costs, concluding that the plaintiffs' lawsuit was frivolous and their pursuit of claims against Lazarev was both legally and factually unreasonable. The plaintiffs filed a timely notice of appeal. We affirm.

Western District of Kentucky

HUMPHREYS & PARTNERS ARCHITECTS, L.P. V. HRB LOUISVILLE LLC

Plaintiff Humphreys & Partners Architects, L.P. (“Humphreys”) brought suit alleging copyright infringement against Defendants HRB Louisville LLC; HRB Louisville Member LLC; Royal/Buck Company LLC, Buck SH Company, LLC, The John Buck Company, LLC, Buck Development Louisville, LLC, Buck Development, LLC and TJBC, Inc.; Henneman
Joshua L. Simmons
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Engineering Inc.; and Royal Apartments USA, Inc. (collectively, the “Defendants”). Humphreys now moves for partial summary judgment on the issue of whether it owns a valid copyright. For the reasons below, the Court will grant Humphreys’ motion.

Humphreys has submitted six copyright registrations from the United States Copyright Office relating to the 12101 Louisville Design. Humphreys has also submitted seven copyright registrations related to prior works that Humphreys used as a source for elements of the 12101 Louisville Design. Humphreys completed these works in 2012, within five years of the Copyright Office issuing certificates of registration in 2014. Furthermore, as additional evidence of ownership, Humphreys provided affidavits supporting the authorship and originality of the 12101 Louisville Design.

Defendants have not offered any evidence to rebut the presumption of a valid copyright or even dispute the additional evidence of copyright ownership. As a matter of law, Humphreys owns a valid copyright to the 12101 Louisville Design.

Defendants further argue that a certification of registration is merely a presumption and is rebuttable. This is correct as a matter of law. However, Defendants have not attempted to rebut this presumption and Humphreys has provided evidence of copyright ownership beyond the certificates of registration.

Lastly, Defendants argue that Humphreys is seeking summary judgment on a matter not in controversy: whether Humphreys owns a valid copyright for the works that were a source for some elements of the 12101 Louisville Design. The Court, however, construes Humphreys' motion for summary judgment to be limited to the issue of whether it owns a valid copyright to the 12101 Louisville Design. Humphreys' introduction of the additional certificates of registration was to provide evidence that it owned the copyright to elements previously included in other copyrighted designs and subsequently included in the Louisville Design.

Eastern District of Michigan

MAHAVISNO V. COMPENDIA BIOSCIENCE, INC.

This is a case alleging copyright infringement and breach of contract. Before the Court are Defendant Compendia Bioscience, Inc.'s Motion for Summary Judgment or Partial Summary Judgment (Doc. #89) and Defendant Life Technologies Corporation's Motion for Summary Judgment or Partial Summary Judgment (Doc. #90). The motions have been fully briefed by the parties, and the Court heard oral argument.

For the reasons set forth below, the Court shall GRANT IN PART and DENY IN PART Defendants' motions for summary judgment or partial summary judgment.

The Court finds that the three elements for an implied license have been satisfied in this case and that the undisputed facts show that Plaintiff created and gave his computer software code to Compendia with the intent that Compendia use the software in its products.
GENERAL MOTORS L.L.C. V. AUTEL.US INC.

Plaintiffs General Motors L.L.C. and GM Global Technology Operations L.L.C., (collectively “GM”) filed this lawsuit against Defendants Autel.US Inc., Autel Intelligent Technology Co., Ltd., (collectively “Autel”) and Gary DeLuca on December 12, 2014, asserting various claims, including trademark and copyright infringement, circumvention of security measures, computer intrusion, breach of contract misappropriation of trade secrets, and unjust enrichment. (Complaint, Dkt. 1). On March 20, 2015, Defendants filed this partial motion to dismiss. (Dkt. 15). Following full briefing, the Court heard oral argument on December 3, 2015. For the reasons that follow, Defendants' motion to dismiss is DENIED.

GM's complaint does not claim that Autel is circumventing its technological means for the purposes of achieving interoperability with Autel's independently created computer programs. It claims that Autel is taking GM's software and making an illegal copy of it—not that Autel is circumventing its technological security measures for the purpose of achieving interoperability with an independently created computer program. (Complaint, ¶¶ 184-85). This provision is further inapplicable because GM claims that Autel's actions constitute infringement under the DMCA.

Because GM has not plead itself into the reverse engineering provisions, Defendants' motion to dismiss Counts IV and V is denied.

FORD MOTOR COMPANY V. AUTEL US INC.

Pending before the Court is Autel's partial motion to dismiss, which was filed on November 20, 2015. (Dkt. 29). Autel seeks dismissal of five of the nine counts alleged in Ford's complaint. Following full briefing, the Court heard oral argument on January 27, 2016. For the reasons explained below, Autel's motion to dismiss is GRANTED IN PART and DENIED IN PART.

Here, Ford has identified specific products and actions that infringe on its copyrights. Ford claims that Autel's MaxiDAS product contains an unlawfully obtained copy of the Calid file. (Dkt. 28, p. 9). More specifically, it claims that the copy is contained in Autel's "autel_01.tab" file. (Id.) Ford also alleges that the MaxiDAS contains a copy of "all or a substantial portion" of its Mnemonics file, within Autel's "en_text.tab" file. (Id. at pp. 30-31). Ford need not prove its copyright infringement claims in its complaint. Ford has alleged facts in the Second Amended Complaint that sufficiently plead copyright infringement as to both the Calid file and the Mnemonics file. Accordingly, Autel's motion to dismiss Count One is DENIED.

In Count Two, Ford claims that Autel has violated the DMCA, codified at 17 U.S.C. § 1201 et seq. Although not specified in the Second Amended Complaint, Ford appears to claim that Autel
has violated §§ 1201(a)(1)-(2). . . . Ford has failed to plead a claim under either of these provisions. Ford claims that the IDS contains various data compilations, including the FFData file. . . . It alleges that the FFData file consists of trade secrets, and that it protects its trade secrets through encryption and obfuscation technology. . . . Ford further contends that Autel developed or used the PARSEALL.EXE program to circumvent its technological security measures and access the FFData file as well as other data from the IDS. . . .

This is insufficient to state a claim because Ford does not allege that the FFData file is copyrighted. Nor does Ford allege that its copyrights, including the Calid file or the Mnemonics file, are contained within the FFData file. Therefore, while Ford has alleged that Autel circumvented its technological security measures to improperly access its trade secrets in the form of the FFData file, it has not alleged that Autel circumvented its security measures to access a copyrighted work. Autel's motion to dismiss Count Two is GRANTED.

EGGLESTON V. DANIELS

In this copyright infringement case, Plaintiff Sophia Eggleston ("Plaintiff" or "Eggleston") alleges that her self-characterization in her 2009 memoir The Hidden Hand was the uncredited inspiration for the character Loretha "Cookie" Lyon on the FOX television series Empire. . . . [A]ll Defendants seek to dismiss Plaintiff's First Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted. . . .

Defendants' motion to dismiss will be GRANTED IN PART as to Count II only and DENIED as to the remaining Counts. . . . Plaintiff's allegation that there are substantial similarities between these two works with respect to the characterization of Sophia Eggleston as depicted in the Hidden Hand and the fictional character Cookie Lyon as depicted on Empire is plead with sufficient facts to make it reasonable to expect that discovery may reveal evidence of copyright infringement and is therefore sufficiently plausible to survive a motion to dismiss.

Northern District of Ohio

EBERHARD ARCHITECTS, LLC V. BOGART ARCHITECTURE, INC.

This matter is before the Court upon Defendant The Albert M. Higley Company's Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(6), or in the Alternative, Motion to Bifurcate Pursuant to Federal Rule of Civil Procedure 42(b) . . . . For the following reasons, the Motion to Dismiss is DENIED and the Motion to Bifurcate is GRANTED as to discovery only. . . .

In applying the test, the Court finds that it has jurisdiction over this matter. The complaint sounds in copyright infringement and expressly alleges such infringement by the defendants. In response, the Contractor Defendants argue that they are not infringers because the Agreement provided them with a nonexclusive license to use the IOS. The existence of a nonexclusive
license, however, is a defense to a copyright infringement claim. . . . Defenses are not considered under the T.B. Harms test in determining whether jurisdiction lies. Additionally, plaintiff seeks remedies afforded under the Copyright Act that are not available with respect to plaintiff's breach of contract claim. . . . Because the complaint is for a remedy expressly granted by the [Copyright] Act, this Court has jurisdiction over this matter. . . .

The Contractor Defendants move to dismiss the copyright claim on the grounds that plaintiff granted them a nonexclusive license to use the IOS and a nonexclusive license is a "complete defense" to a copyright infringement claim. . . . The problem with the Contractor Defendants' argument is that Lifecare agreed that the license terminates if plaintiff "rightfully" terminates the Agreement. These defendants cite a number of cases in which courts have repeatedly held that a failure to pay invoices does not give rise to a copyright infringement claim. These cases, however, focus on the parties' intent. And, with the exception of one case, none of them contained an agreed upon termination provision expressly directed at the termination of the license. Here, by agreement of the parties, the nonexclusive license ceased to exist upon plaintiff's rightful termination of the Agreement. The Contractor Defendants cite no law suggesting that a copyright infringement claim will not lie even though the license was terminated in a manner agreed to by the parties. Based on the submissions of the parties and at this stage in the litigation, the Court cannot say that dismissal is warranted. Having so concluded, the Court need not reach plaintiff's "law of the case" argument.

Southern District of Ohio

COMPASS HOMES, INC., PLAINTIFFS, V. TRINITY HEALTH GROUP, LTD., ET AL., DEFENDANTS.

Plaintiff Compass Homes, Inc. brings this action for copyright infringement relating to floor plans it designed for a single family residence. Compass designed the plans for a married couple, defendants Thomas and Angela McDermott, who later decided not to build their home through Compass. The McDermotts instead turned to defendant Trinity Health Group, Ltd. to help them design and build their home. Compass alleges that Trinity designed a home that is substantially similar to the Compass design.

This matter is before the court on the parties' cross-motions for summary judgment. For the reasons stated below, the motions are denied as to the issue of whether the defendants' plans are substantially similar to the Compass plans, but the defendants' motions are granted on the issue of whether Compass is entitled to recover statutory damages and attorney's fees.

Middle District of Tennessee

SCHENCK V. OROSZ

The plaintiffs have filed a Second Motion for Summary Judgment (Docket No. 152), to which the defendants have filed a Response in opposition (Docket No. 162), and the plaintiffs have
filed a Reply (Docket No. 166). For the following reasons, the Motion will be granted in part and denied in part.

In sum, the plaintiffs are, therefore, entitled to summary judgment as to the infringement by the defendants of certain SJ Works, as set forth above. However, the defendants have raised issues of fact sufficient to preclude summary judgment as to the remaining SJ Works and this case will proceed as to those claims (including the counterclaims).

ACS TRANSPORT SOLUTIONS, INC. V. NASHVILLE METROPOLITAN TRANSIT AUTHORITY
No. 3:13-CV-01137, 2016 WL 1756443 (M.D. Tenn. Apr. 29, 2016)

Pending are cross-motions for summary judgment (Doc. Nos. 59, 62). The parties have responded and replied. As set out below, the cross-motions are GRANTED in part and DENIED in part.

MTA asserts that it did not terminate the licenses-only the contracts-so it had an express license to use ACS's software. This theory is without merit because the licenses were part of the contracts. The express license was rescinded in September 2012 when MTA terminated the contract.

MTA asserts the alternative theory that it had an implied license to use the software while it transitioned to the new system. Here, unlike Quinn, the licensee (MTA) terminated an express license. Although Quinn is not directly on point, MTA had an implied right to use the software for a reasonable time while it had another system installed. If MTA used ACS's software after a reasonable transition period, it exceeded the scope of its implied license. It seems to me that if MTA needed more than two years to replace the equipment it should have waited until after a new system was installed before terminating ACS. Nevertheless, the material fact of how long a reasonable transition period is remains in genuine dispute. Accordingly, summary judgment on this issue is inappropriate.

WHITEHARDT, INC. V. MCKERNAN

Before the court is the Partial Motion to Dismiss (Doc. No. 31) filed by defendants Gordon J. McKernan and Gordon McKernan Injury Attorneys, LLC, f/k/a The McKernan Law Firm ("the Law Firm"). The defendants seek dismissal under Rule 12(b)(6) of the plaintiff's claims of tortious interference (Count IV), unfair competition (Count V), and violation of the Tennessee Consumer Protection Act ("TCPA") (Count VI), and a portion of Plaintiff's copyright infringement claim (Count II). For the reasons set forth herein, the motion will be granted in part and denied in part.
1. Unfair Competition . . . Claims predicated on a theory of reverse passing off may be preempted by § 301 . . . . Here, Whitehardt does not claim that defendants are selling their own product (or services) and representing that they are actually Whitehardt's. Instead, Whitehardt alleges that the defendants are attempting to sell the defendants' product (by licensing their trademarks to others, including Citrin) and representing to the public (specifically Citrin) that the trademarks are valid and belong to the defendants, when, according to Whitehardt, the trademarked material is derivative of Whitehardt's Copyrighted Works. This fact pattern closely matches Nimmer's description of reverse passing off . . . . In short, the court finds that this claim is preempted by the Copyright Act and subject to dismissal on that basis.

2. The TCPA . . . This claim is preempted for the same reasons that the unfair competition claim is preempted: it is, in essence, a reverse passing off claim, not a true passing off claim. Moreover, the additional element of likelihood of confusion does not render the claim qualitatively different from a copyright claim.

3. Tortious Interference . . . The preemption issue as related to this claim presents a very close call. On one level, the claim could be construed as arising from the defendants' act of registering a trademark that infringes upon the plaintiff's copyright. Viewed in that light, the defendants' attempts to have Citrin sign the TLA represent an infringement of the plaintiff's right to authorize the use and copying of its copyright-protected works. In this case, however, the rights the plaintiff seeks to vindicate in the tortious interference claim are not "precisely equivalent to the rights he seeks to vindicate under the Copyright Act." . . . The rights at issue are not only the plaintiff's rights to reproduce and distribute copyrighted works and to prepare derivative works. The tortious interference claim also concerns a more general right to represent Citrin and to perform services on Citrin's behalf in the arena of advertising. The relationship extended beyond Citrin's use of Whitehardt's copyrighted works and derivations thereof. Further, the conduct complained of—wrongfully threatening litigation—goes beyond simply copying or using the plaintiff's Copyrighted Works.

Seventh Circuit

Court of Appeals for the Seventh Circuit

CONSUMER HEALTH INFORMATION CORP. V. AMYLIN PHARMACEUTICALS, INC. No. 14-3231, 2016 WL 1534013 (7th Cir. Apr. 15, 2016)

Consumer Health Information Corporation sued Amylin Pharmaceuticals, Inc., alleging copyright infringement. 17 U.S.C. §§ 101 et seq. The dispute centers on copyright ownership: Who owns the copyright in certain patient-education materials Consumer Health developed for Amylin's use in marketing its diabetes drug Byetta? The parties' contract, executed in March 2006, unambiguously assigns the copyright to Amylin. This suit is an attempt to reclaim ownership of the copyright and recover damages for infringement. To that end, Consumer Health alleges that the contract was induced by fraud or economic distress and seeks rescission. The district court dismissed the suit as untimely.
We affirm. Consumer Health assigned the copyright to Amylin in 2006 but did not file this suit until July 2013, several years too late under either of two applicable statutes of limitations. A four-year limitations period applies to claims for contract rescission under California law, which governs the parties' contract. Cal.Civ.Proc.Code § 337. Claims under the Copyright Act are subject to a three-year statute of limitations. 17 U.S.C. § 507(b). Consumer Health's cause of action accrued in March 2006, when the contract was executed; at that point Consumer Health knew that Amylin owned the copyright, and the limitations clock on a suit to reclaim ownership started ticking. Under either statute of limitations, the suit is untimely.

BELL V. LANTZ
No. 15-2341, 2016 WL 3361557 (7th Cir. Jun. 17, 2016)

This appeal concerns an award of attorney's fees by the district court to Charles Lantz, who was the defendant in a suit brought by Richard Bell under the Copyright Act, 17 U.S.C. § 501 et seq., which was later voluntarily dismissed. Bell does not challenge the court's decision to award fees, but contests the amount of fees awarded.

BELL V. TAYLOR
No. 15-3731, 15-2343, 15-3735, 2016 WL 3568139 (7th Cir. Jul. 1, 2016)

Richard Bell sued several defendants for copyright infringement, alleging that they impermissibly displayed a photo belonging to Bell on websites promoting their respective businesses. Bell sought damages as well as injunctive and declaratory relief in federal district court. The district court granted summary judgment for defendants, first on damages and later on injunctive and declaratory relief. Bell also filed a second copyright infringement lawsuit against some of the defendants in the same court. The district court granted defendants' motion to dismiss the second case based on res judicata. Bell appeals the grant of summary judgment for defendants in the first case and the grant of defendants' motion to dismiss in the second case. For the reasons that follow, we affirm the judgment of the district court in both cases.

ALI V. FINAL CALL, INC.
No. 15-2963, 2016 WL 4248567 (7th Cir. Aug. 10, 2016)

Carpenters have a saying: measure twice, cut once. This litigation might have been averted if that adage had been observed here. In 1984, Jesus Muhammad-Ali painted a portrait of the leader of the Nation of Islam, Louis Farrakhan. In 2013, Ali sued The Final Call, a newspaper that describes itself as the "propagation arm of the Nation of Islam," for copyright infringement. The Final Call, it turned out, admittedly had sold over a hundred copies of Ali's Farrakhan portrait. Ali nonetheless lost his case after a bench trial. He now appeals, arguing that the district court misstated the elements of a prima facie copyright infringement claim and erroneously shifted to him the burden of proving that the copies were unauthorized. Ali is correct, and The Final Call proved no defense. We therefore reverse.
Central District of Illinois

DESIGN IDEAS, LTD. V. MEIJER, INC.

This cause is before the Court on Defendant Meijer, Inc.'s Partial Motion to Dismiss First Amended Complaint (d/e 46). Meijer seeks to dismiss Counts II, VI, and X. . . . The Motion is GRANTED IN PART and DENIED IN PART. Counts II and VI are dismissed as barred by the statute of limitations. However, the motion to dismiss Count X is denied without prejudice. . . .

Because the Court finds Counts II and VI are barred by the statute of limitations, the Court need not address Meijer's claim that Counts II and VI are barred by the release in the Settlement Agreement. . . .

Construing the First Amended Complaint in the light most favorable to Plaintiff, the Court finds that Plaintiff could have a breach of contract claim against Meijer that is not equivalent to a right within the general scope of copyright. . . . The Settlement Agreement contains promises by Meijer separate and apart from the promise not to infringe Plaintiff's intellectual property. Therefore, Meijer's motion to dismiss Count X is denied without prejudice.

Northern District of Illinois

COBBLER NEVADA, LLC V. DOES 1-28

Anonymous defendants, identified by the Internet Protocol (“IP”) address 73.51.161.46 (herein referred to as “Doe 26”) and 98.215.66.174 (herein referred to as “Doe 16”), have each moved to quash a subpoena directing Does' internet service provider to furnish Does' personal identifying information. Doe 16 also moves to dismiss pursuant to Fed. R. Civ. P. 12 (b) for lack of personal jurisdiction and requests an award of fees. For the reasons stated below, the Does' motions are denied.

MALIBU MEDIA LLC V. DOE
No. 13 C 6312, 2016 WL 464045 (N.D. Ill. Feb. 8, 2016)

Pending before the court are cross-motions for summary judgment by plaintiff Malibu Media, LLC [dkt 147] and defendant John Doe [dkt 144]. Also pending are defendant's motions to Strike Certain Portions of Plaintiff's Statement of Undisputed Material Facts [dkt 160] and to Strike Portions of Plaintiff's Local Rule 56.1(b)(C)(3) Statement [dkt 161]. For the reasons stated below, plaintiff's motion for summary judgment is denied. Defendant's motions are granted. . . .

Even considering the disputed declarations, Malibu has failed to demonstrate that there is no genuine question of material fact about whether Doe infringed its works, and, therefore, Malibu's motion for summary judgment is denied. . . .
There is a second reason why summary judgment could not be granted for Malibu based on the evidence before the court. Malibu must show copying of “constituent elements of the work that are original.” Feist, 499 U.S. at 361. There is virtually no evidence before the court of what Doe allegedly copied or distributed.

WOODS V. CARTER  
No. 15 C 9877, 2016 WL 640526 (N.D. Ill. Feb. 18, 2016)

Anthony Woods has filed a pro se lawsuit against Dwayne Carter. Woods alleges that Carter, also known by his rap pseudonym Lil Wayne, violated copyright law by using in his raps concepts and phrases that were inspired by Woods. Woods has moved to proceed in forma pauperis, that is, without paying the usual filing fee. For this reason, the Court has reviewed Woods's amended complaint to determine whether it is frivolous, malicious, or fails to state a claim on which relief can be granted. 28 U.S.C. § 1915(e)(2). The Court dismisses Woods's amended complaint for the reasons stated below.

In this case, the similarities between the songs are even less significant. First of all, the isolated words and phrases that Woods cites are not protected by copyright; they are ‘merely...short phrase[s] or expression[s] which hardly qualify as...appreciable amount[s] of original text.’ Second, the words Woods cites to support his claim of copyright infringement are commonly used in popular music. Unlike the unusual naming of Kate Moss in Peters, references to Rolls Royce cars are relatively common in popular music in general and hip hop in particular. And unlike in Peters, this case does not involve two songs with identical titles—the only argument Woods makes regarding titles involves his song ‘My Shit’ and Carter's reference to defecation in a later song, which quite obviously does not amount to copyright infringement. Such references are so ubiquitous that they are unprotected. Finally, though Woods points to supposedly common ‘bars’ (rhyme schemes), rhyme schemes are not protected content because ‘copyright protects actual expression, not methods of expression.’

In sum, Woods has failed to state a viable claim of copyright infringement. At most, his complaint identifies minor cosmetic similarities between his lyrics and Carter's. And as the Court has indicated, Carter's alleged references in his songs to details from Woods' life—which make up the bulk of Woods's complaint—are not actionable, as copyright infringement or otherwise. As such, the Court finds that Woods has failed to state a claim on which relief can be granted.

FILMON X, LLC V. WINDOW TO THE WORLD COMMUNICATIONS, INC.  

Plaintiff FilmOnX, LLC (“FilmOnX”) originally filed this declaratory judgment action against Defendant Window to the World Communications, Inc. (“WTTW”) in November 2013. FilmOnX sought a declaratory judgment that certain technology it used to enable consumers to access WTTW's broadcast programming “from any Internet-enabled device” does not infringe any WTTW copyright. See Compl., Dkt. 1, ¶ 1, 24. WTTW counterclaimed for copyright infringement.
infringement in January 2014, see Dkt. 15, at 19; and FilmOnX answered that counterclaim in February 2014. See Dkt. 23. Shortly afterward, in March 2014, FilmOnX filed, and the Court granted, an Unopposed Motion to Stay the case pending the Supreme Court's decision in American Broadcasting Companies, Inc. v. Aereo, Inc., 134 S. Ct. 2498 (2014) [hereinafter Aereo III], which was anticipated to address a copyright issue concerning a service similar to that used by FilmOnX. See Dkts. 28-31.

Shortly after the Supreme Court's decision in Aereo III, FilmOnX sought and obtained leave “to amend its complaint and plead that it is entitled to a statutory license as a ‘cable system’ pursuant to 17 U.S.C. § 111 (‘Section 111’),” relying upon certain language in the Supreme Court's Aereo III opinion. See Dkt. 35, at 1; Dkt. 36. FilmOnX thereafter filed its First Amended Complaint for Declaratory Judgment (Dkt. 37); WTTW filed its Answer and Amended Counterclaim for copyright infringement (Dkt. 38);1 and FilmOn filed its Answer to that Counterclaim (Dkt. 39).

In that Answer, FilmOn added a new fifteenth affirmative defense asserting that its “retransmission of WTTW's copyrighted works is authorized under the compulsory license scheme set forth under Section 111 of the Copyright Act.” Id. at 14.

Now before the Court are the parties' cross-motions for partial summary judgment. See Dkts. 48 (WTTW Motion) and 57 (FilmOn Motion). Each side seeks summary judgment in its favor on (1) FilmOn's declaratory judgment claim “seeking a judicial declaration that FilmOnX meets the statutory definition of a ‘cable system’ under Section 111 of the Copyright Act and is entitled to a compulsory license thereunder,” Dkt. 37, ¶ 5; and, correspondingly, (2) FilmOn's fifteenth affirmative defense to WTTW's copyright infringement counterclaim, asserting that “retransmission of WTTW's copyrights works is authorized under the compulsory license scheme set forth under Section 111 of the Copyright Act.” Dkt. 39, at 14; Dkt. 39-1, at 14. For the following reasons, WTTW's motion for partial summary judgment on these issues (Dkt. 48) is granted, and FilmOn's motion for partial summary judgment on these issues (Dkt. 57) is denied.

THE JOINT COMMISSION ON ACCREDITATION OF HEALTHCARE ORGANIZATIONS V. THE GREELEY COMPANY, INC.

The plaintiffs, the Joint Commission on Accreditation of Healthcare Organizations (“the Joint Commission”) and Joint Commission Resources, Inc. (“JCR”), bring suit against the defendants, the Greeley Company, Inc. (“Greeley”) and Fortis Business Media LLC (“Fortis”), alleging copyright infringement under the Copyright Act of 1976, 17 U.S.C. §§ 106, 501. The defendants have moved to dismiss. See Mts. Dismiss, ECF Nos. 44, 45. For the following reasons, the motions to dismiss are granted. . . .

[T]he plaintiffs filed suit in December 2014 but did not file an application to register the copyright in the 2009 CAMH until June 3, 2015, nearly six months after this lawsuit was instituted. . . . “A rule in the form ‘no action shall be instituted until...’ means that the condition must be fulfilled before the litigation begins. Satisfaction of the condition while the suit is
pending does not avoid the need to start anew.” . . . Thus, the plaintiff’s claims based upon the 2009 CAMH must be dismissed without prejudice for failure to comply with the precondition in § 411(a). . . .

Here, the plaintiffs have alleged substantial similarity, but they have not supported that legal conclusion with facts that make it plausible. . . . The plaintiffs identify only two paragraphs in the defendants' Human Resources Guide that are copied verbatim from the plaintiffs’ 742-page work. . . . The only other evidence of infringement is one page of the defendants' Infection Control Guide, which paraphrases one page of the 2011 CAMH. . . . The defendants dispute that their page is substantially similar to the page from the 2011 CAMH, but even assuming that it is, what the plaintiffs have identified as evidence of substantial similarity between their 2011 CAMH and the defendants' publications amounts to one page out of 742 pages that contains two paragraphs of identical text and one page that contains mainly paraphrased text. Those allegations fall well short of plausibly alleging substantial similarity to the plaintiffs' 2011 CAMH. Two out of 742 pages (.27%) of the 2011 CAMH have been allegedly infringed. This minimal degree of duplication is not a reproduction of a substantial portion of the plaintiffs' work and the complaint, thus, fails to satisfy the plaintiffs' obligation under Rule 8 to plausibly allege infringement of their copyright in the 2011 CAMH.

NTE, LLC V. KENNY CONSTRUCTION COMPANY
No. 14 C 9558, 2016 WL 1623290 (N.D. Ill. Apr. 25, 2016)

Plaintiff NTE, LLC ("NTE") filed this copyright infringement suit against several of its former clients, including Defendant and movant Kenny Construction Company ("Kenny") on December 1, 2014. Kenny has moved for summary judgment on the seven counts of the First Amended Complaint in which Kenny is involved . . . . For the following reasons, Kenny's motion is granted in part and denied in part. . . .

I find that NTE's valid copyright does extend to the selection, arrangement and coordination of the data in the NTE system, including the particular way in which NTE's barcodes imbue the data with meaning. But this does not end the inquiry, for as we shall see below, the fact that raw data is entangled with copyrighted technology does not automatically render extraction of the data an infringement. . . .

Here, access is established via Kenny's documented, contracted-for use of the NTE system. However, the record is not developed enough for an "ordinary observer," let alone a jury, to determine if the KCI Internal System meets the substantial similarity test. "One of the principal purposes of the summary judgment rule is to isolate and dispose of factually unsupported claims or defenses..." . . . Here, NTE has provided very little evidence that the KCC Internal System is actually modeled on or structurally related to the NTE system, except insofar as both systems made use of a barcode tracking system. Even in that regard, there is no evidence that Kenny's barcodes utilize the same selection, arrangement, or organization scheme as NTE's barcodes. NTE alleges, but does not support, that Kenny simply replaced NTE's barcodes with different codes generated by Kenny, and further points to Kenny's extraction of two columns of data from
the NTE system. But neither of these allegations speaks to whether Kenny copied NTE's selection, arrangement, and coordination scheme, which are the only copyrighted elements of its work. Thus, because the record does not provide enough evidence for a reasonable jury to find in favor of the Plaintiff, I am granting Kenny's motion for summary judgment on the copyright claims.

CULVER FRANCHISING SYSTEM, INC. V. STEAK N SHAKE INC.
No. 16 C 72, 2016 WL 4158957 (N.D. Ill. Aug. 5, 2016)

Culver Franchising System, Inc., brought this suit against Steak n Shake Inc., alleging that Steak n Shake unlawfully copied one of its television commercials in violation of the Copyright Act, 17 U.S.C. § 101 et seq. Doc. 1. Steak n Shake has moved to dismiss the complaint pursuant to Federal Rule of Civil Procedure 12(b)(6), arguing that the two commercials are not substantially similar. Doc. 14. The motion is granted, and the complaint is dismissed without prejudice to Culver attempting to replead.

Southern District of Indiana

BELL V. TAYLOR

This matter is before the Court on Defendants Cameron Taylor's and Taylor Computer Solutions' (collectively, "Taylor Defendants") Motions for Attorney Fees and Costs and Bill of Costs . . . pursuant to 17 U.S.C. § 505 of the Copyright Act, 28 U.S.C. § 1927, and Federal Rules of Civil Procedure 54 and 68. Taylor Defendants filed their request for costs and fees after they became the "prevailing party" in this Copyright Act case. For the following reasons, the Court GRANTS Taylor Defendants' request for costs and fees.

Eastern District of Wisconsin

MEDICAL COLLEGE OF WISCONSIN INC. V. ATTACHMATE CORPORATION

This case arises out of a software licensing dispute. (See generally Docket #1). Plaintiff, The Medical College of Wisconsin, Inc. ("Medical College"), filed its complaint on February 5, 2015, alleging that Defendant, Attachmate Corporation ("Attachmate"), violated both the Wisconsin Deceptive Trade Practices Act (Wis. Stat. Ann. § 100.18(1)) and the implied covenant of good faith and fair dealing. (See Docket #1 ¶¶ 58-69). The Medical College also sought declarations that it did not infringe Attachmate's software copyrights and did not breach the parties' software licenses, otherwise known as End User License Agreements ("EULA"). (Docket #1 ¶¶ 32-42). Attachmate counterclaimed with breach of contract and copyright infringement claims. (Docket #38 ¶¶ 35-50).

Currently before the Court are three motions: (1) Attachmate's motion to dismiss the Medical College's Wisconsin Deceptive Trade Practices Act ("WDTPA") claim pursuant to Federal Rule
of Civil Procedure 12(b)(6); (2) Attachmate's motion for partial summary judgment pursuant to Federal Rule of Civil Procedure 56; and (3) the Medical College's motion for summary judgment, also brought pursuant to Federal Rule of Civil Procedure 56.2 (Docket #28, #41, #46).

For the reasons outlined below, the Court will: (1) grant Attachmate's motion to dismiss the WDTPA claim (Docket #28); (2) grant in part and deny in part Attachmate's motion for partial summary judgment (Docket #41); and (3) deny the Medical College's motion for summary judgment in its entirety (Docket #46). Therefore, the live issues remaining after summary judgment in this case are: (1) whether the Medical College breached its duty to implement internal safeguards to prevent unauthorized copying, distribution, or use of Reflection software under Section 4 of the EULA; (2) the determination of an appropriate damage award for the Medical College's breach of Section 1 of the EULA; and (3) liability and damages with respect to Attachmate's copyright claim.

DESIGN BASICS LLC VS. CAMPBELLSPORT BUILDING SUPPLY, INC.

Plaintiff Design Basics LLC, owner of copyrighted building plans, alleges that the Defendants, competitors in the home design industry, have infringed on 64 of its copyrighted plans. The Defendants counterclaim that the copyrights are invalid. Design Basics' motions for costs and for partial summary judgment on its copyright claims (ECF Nos. 128, 134) and the Defendants' motion for summary judgment dismissing Design Basics' claims (ECF No. 129) are ready for resolution and addressed herein. . . .

NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT:
Design Basics' motion for costs (ECF No. 128) is DENIED; The Defendants' summary judgment motion (ECF No. 129) is GRANTED with respect to the eight DMCA infringement claims predating October 28, 1998, which are DISMISSED, and DENIED in all other respects. The Defendants' request for dismissal of Design Basics' claims based on the Colbourne plan is GRANTED; and Design Basics' motion for partial summary judgment (ECF No. 134) is GRANTED with respect to the fourth affirmative defense and DENIED in all other respects.

Western District of Wisconsin

BOEHM V. SCHEELS ALL SPORTS, INC.
No. 15-CV-379-JDP, 2016 WL 1559183 (W.D. Wis. Apr. 15, 2016)

Plaintiffs Scott Boehm and David Stluka have again moved to compel discovery from Event USA, which stands accused of infringing plaintiffs' copyrights. Dkt. 321. Plaintiffs' earlier motion to compel, which arose from a site inspection, resulted in a court order allowing them access to discovery about the use of images that they reasonably believed were theirs, regardless of whether those images were included in Exhibit 1 to the injunction. Dkt. 319. But the court denied plaintiffs' request for discovery relating to alleged infringements of the works of others, reasoning that it was outside the scope of this case and would "be wasteful and unduly burdensome" on defendants. Id. Plaintiffs now ask the court to reconsider that order. The court
will deny the motion for the most part, although it will offer some clarification about effect of the statute of limitations on the scope of permissible discovery.

**Eighth Circuit**

**DRYER V. NATIONAL FOOTBALL LEAGUE**
No. 14-3428, 2016 WL 761178 (8th Cir. Feb. 26, 2016)

Appellants John Frederick Dryer, Elvin Lamont Bethea, and Edward Alvin White played professional football in the National Football League (“NFL”). They participated in a putative class-action lawsuit in which twenty-three former NFL players sued the NFL on behalf of themselves and similarly situated former players. This suit claimed that films produced by NFL-affiliate NFL Films violated the players' rights under the right-of-publicity laws of various states as well as their rights under the Lanham Act, 15 U.S.C. § 1125. Twenty of those players settled their dispute with the NFL, but the appellants elected to opt out of that settlement and pursue their individual right-of-publicity and Lanham Act claims. The district court granted the NFL's motion for summary judgment on these claims. We affirm.

Because we hold that the Copyright Act preempts the appellants' right-of-publicity claims, we do not reach the district court's alternative rationales for granting summary judgment to the NFL.

**UNITED STATES V. FRISON**
No. 15-1284, 2016 WL 3184476 (8th Cir. Jun. 8, 2016)

After a bench trial, Jack Frison, Sr., was convicted of conspiracy to commit offenses against the United States in violation of 18 U.S.C. § 371, aiding and abetting copyright infringement in violation of 17 U.S.C. § 506(a)(1)(A) and 18 U.S.C. § 2319(b)(1) and (2), and aiding and abetting the trafficking of counterfeit goods in violation of 18 U.S.C. §§ 2320(a), (b)(1) and 18 U.S.C. § 2. The district court sentenced Frison to two years' imprisonment on each count, to be served concurrently. Frison appeals, arguing that the statutes of conviction are unconstitutionally vague as applied to him. We have jurisdiction pursuant to 28 U.S.C. § 1291, and finding no constitutional violation, we affirm.

**Broadcast Music, Inc. v. Ken V, Inc.**
No. 4:14CV1647 NCC, 2016 WL 362513 (E.D. Mo. Jan. 29, 2016)

This matter is before the court pursuant to Plaintiffs' Motion for Summary Judgment.

In support of their Motion for Summary Judgment, Plaintiffs have submitted copies of the copyright registration certificates for each composition at issue, as well as any subsequent assignments and other documents which indicate copyright ownership. With this evidence, for the purpose of summary judgment, Plaintiffs have satisfied the first three elements of the five-element test to establish infringement of copyright of musical compositions.
Further, Plaintiffs have established the fourth element, public performance, as Defendants admit that the musical compositions were performed at Kenny's Bar & Grill as alleged by Plaintiffs. Moreover, Plaintiffs have provided a Certified Infringement Report which states that the songs at issue were played at Kenny's Bar & Grill on or about October 12, 2013.

As for the fifth and last element of copyright infringement—the alleged infringer had not yet received permission to play the copyrighted music—it is undisputed that, at the time BMI licensed music was performed at Kenny's Bar & Grill, on October 12 and 13, 2013, Defendants did not have a license from BMI. As such, the court finds that the undisputed facts establish a prima facie case of copyright infringement.

DESIGN BASICS, L.L.C. V. CARHART LUMBER COMPANY

Plaintiff Design Basics, L.L.C., ("DB") is in the business of publishing and licensing architectural designs. DB brings this copyright infringement action against the defendants ("Carhart")—who sell home building products and offer blueprint-drafting services—claiming that Carhart "made infringing copies of DB's house plans" and "may have built one or more infringing structures," or aided in doing so. Specifically, DB claims that Carhart "scann[ed], cop[ied], and/or reproduc[ed] unauthorized copies" of DB's house plans; "creat[ed] derivative works" from the plans; and "advertised, marketed and/or sold these or other infringing structures, or aided and abetted such activities." (Filing 1, Complaint.)

Carhart has filed a motion for summary judgment (Filing 62), arguing that DB's claims are barred by the Copyright Act's statute of limitations.

(a) Defendants' motion for summary judgment (Filing 62) is granted only as to infringement claims related to the posting on Carhart's website of house plans that potentially infringed DB's copyrighted "Winter Woods," "Sinclair," "Laramy," and "Gabriel Bay" house plans;

(b) Defendants' motion for summary judgment (Filing 62) is denied as to DB's other possible acts of infringement related to DB's copyrighted "Winter Woods," "Sinclair," "Laramy," and "Gabriel Bay" house plans, such as reproducing unauthorized copies of the plans, aiding in the construction of infringing structures from those plans, and marketing or selling infringing structures derived from those plans;

(c) Defendants' motion for summary judgment (Filing 62) is denied as to Carhart's potential acts of infringement on the remaining copyrighted house plans and plan books referenced in DB's complaint that DB first discovered, or with due diligence should have discovered, on or after April 18, 2010.

ORIENTAL TRADING COMPANY, INC. V. YAGOOZON, INC.
No. 8:13CV351, 2016 WL 2859603 (D. Neb. May. 16, 2016)
This matter is before the Court on plaintiffs' Oriental Trading Company, Inc. and Fun Express, LLC ("plaintiffs"), three separate motions for partial summary judgment. . . .

Plaintiffs fail to meet the summary judgment standard for direct copyright infringement. Although the first element is uncontested, the Court is unconvinced that plaintiffs have shown as a matter of law that the second element has been satisfied. The parties dispute whether Yagoozon, Amazon, or another third-party seller is responsible for the displaying of the copyrighted photographs. . . .

Plaintiffs argue "if Amazon is to blame for copyright ... infringement, then Yagoozon is liable as a contributory infringer." . . . The evidence before the Court demonstrates the existence of genuine issues of material fact whether defendant intentionally induced or encouraged either Amazon or any other third-party seller to directly infringe plaintiffs' copyrighted photographs. Plaintiffs' motions for summary judgement as to contributory copyright infringement will be denied as to both Set One and Set Two.

_Ninth Circuit_

Court of Appeals for the Ninth Circuit

IN RE BASHAS' INC.
Nos. 13-16414, 13-17061, 2016 WL 370667 (9th Cir. Jan. 29, 2016)

The district court didn't err in dismissing Robert Kubicek Architects & Associates, Inc.'s ("RKAA") copyright infringement claims. Given the jury verdict in favor of The Bosley Group, Inc. ("TBG"), the issues presented in RKAA's claims against Bashas' for contributory infringement and vicarious liability are precluded. See Robi v. Five Platters, Inc., 838 F.2d 318, 322 (9th Cir.1988). Further, the district court in the Bosley case found that RKAA had failed to present any "evidence of direct infringement by Bashas'" and thus granted summary judgment to TBG on RKAA's contributory infringement claim against TBG. RKAA didn't challenge this ruling, therefore the issue of direct infringement by Bashas' is also precluded. Id. at 322. Because all of RKAA's claims under the Copyright Act fail, its request for injunctive relief under 17 U.S.C. §§ 502 & 503 also fails.

MERCADO LATINO, INC. V. INDIO PRODUCTS, INC.
No. 13-57009, 2016 WL 2806889 (9th Cir. May. 13, 2016)

Plaintiff-Appellant Mercado Latino, Inc. (Mercado) appeals the district court's order dismissing its complaint for failure to state a claim for relief. We have jurisdiction under 28 U.S.C. § 1291. We reverse and remand.

The district court erred in dismissing Mercado's claim for trade dress infringement, as it was not "preempted" by the Copyright Act. Plaintiffs may bring claims for copyright and trade dress infringement based on the same wrongful conduct. . . . Here, Mercado is not alleging that Indio
has falsely designated the origin of "a communicative product." Thus, Mercado's trade dress allegations do not raise any concern that its claims will "cause[ ] the Lanham Act to conflict with the law of copyright." Rather, Mercado alleges a traditional trade dress claim that Indio's candles bear a design so similar to Mercado's protected trade dress that consumers are confused into believing that Indio's candles are Mercado's. Thus, as in Wal-Mart, Mercado may bring its claim for trade dress infringement under Section 43 of the Lanham Act regardless of whether its claim for copyright infringement is based on the same facts.

INGENUITY 13 LLC V. JOHN DOE

Paul Duffy, Paul Hansmeier, and John Steele (collectively, "the Prenda Principals") appeal the district court's award of attorney's fees, including a punitive multiplier, and a second supersedeas bond order. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

FRIEDMAN V. LIVE NATION MERCHANDISE, INC.
No. 14-55302, 2016 WL 4394585 (9th Cir. Aug. 18, 2016)

This case arises out of a copyright dispute over the use of photographs Appellant Glen Friedman took of the hip hop group Run-DMC. Appellee Live Nation Merchandise ("Live Nation") stipulated in the district court that it infringed Friedman's copyrights when it used his photos without his authorization on t-shirts and a calendar. Our questions are whether there is sufficient evidence in the record to permit a jury to conclude that Live Nation committed willful copyright infringement, making it liable for additional damages under 17 U.S.C. § 504(c)(2); whether a jury could conclude that Live Nation knowingly removed copyright management information ("CMI") from the photographs in violation of 17 U.S.C. § 1202(b); and whether Friedman can recover statutory damages awards measured by the number of retailers who purchased infringing merchandise from Live Nation, even though Friedman did not join those retailers as defendants in his suit.

District of Arizona

HUMPHREYS & PARTNERS ARCHITECTS LP V. ATLANTIC DEVELOPMENT & INVESTMENTS INC.

At issue are Plaintiff Humphreys & Partners Architects, LP's (HPA) Rule 12(b)(1) and Rule 12(b)(6) Motions to Dismiss. . . . First, the Court will resolve HPA's Rule 12(b)(1) Motion to Dismiss Counterclaim Counts For Lack Of Subject Matter Jurisdiction . . . , seeking dismissal of Counts I-IV of Defendants' Counterclaim. Defendants filed a Response . . . , and HPA filed a Reply . . . . Second, the Court will resolve HPA's Rule 12(b)(6) and Rule 9(b) Motion to Dismiss Counterclaim . . . , seeking dismissal of Counts II-XI of Defendants' Counterclaim. Defendants
filed a Response . . . , and HPA filed a Reply . . . . The Court finds these matters appropriate for
decision without oral argument . . .

Here, Defendants contend that because the Counterclaim alleges facts to show that they possess a
copyright, they have standing to bring their copyright infringement claims against HPA.
Specifically, Defendants plead ownership of a copyright in the Masse Plans, through which they
also claim ownership over the plans subsequently prepared by HPA. . . . Plaintiff argues that the
Masse Plans do not fall within one of the prescribed categories of "work for hire" under the
Copyright Act and thus the copyright in the Masse Plans cannot belong to Defendants. . . . In
response, Defendants assert that Mr. Masse has testified that he created the plans with the
intention that Defendant ADI would hold the copyright in the plans, supporting their allegations
in the Counterclaim that they own the copyright. . . . Whether Defendants possess a valid
copyright in the Masse Plans is, at least in part, a question of fact not appropriate for resolution
on a motion to dismiss. . . .

In the Counterclaim, Defendants also plead injury from HPA's attempts to copyright work that
Defendants claim they own and damages from HPA's attempts to bar them from using the plans
to continue development at Castle Rock. . . . This is a sufficiently concrete and particularized
injury for standing purposes, and the alleged conduct traces to HPA. Further, in the event that
Defendants are successful in prosecuting their claims, the Court could grant injunctive or
monetary relief for the infringement. . . . Because Defendants have pled a particularized injury
that is fairly traceable to HPA's conduct, and because the Court can provide some relief in the
event that Defendants are successful, Defendants have standing to bring Counts II, III and IV of
the Counterclaim.

HUMPHREYS & PARTNERS ARCHITECTS LP V. ATLANTIC DEVELOPMENT &
INVESTMENTS INCORPORATED

At issue are Plaintiff Humphreys & Partners Architects, LP's (HPA) Amended Motion for Partial
Summary Judgment . . . .

In resolving a copyright infringement claim, the presumption of copyright validity created by a
plaintiff's copyright registrations can be rebutted by the accused infringer's showing that
plaintiff's work is not original. . . . Here, Defendants have produced evidence that they provided
the Masse and Jones Plans to HPA, who merely revised those Plans, and that HPA's work is
substantially similar to the Masse and Jones Plans, the copyright for which Defendants hold. . . .
While HPA disputes that Defendants gave HPA all of the Masse and Jones Plans . . . and does
not admit that it used the Plans in completing its work . . . , Defendants have produced sufficient
evidence of a lack of originality to shift the burden of proving validity back to HPA. . . .

[A] genuine dispute exists as to whether HPA's work was derivative of the Masse and Jones
Plans—including the extent to which HPA received copies of the Masse and Jones Plans—and thus
the Court cannot determine if HPA's copyright application contained inaccurate information, let
alone whether HPA knowingly included any inaccurate information. . . As a result, the question to the Register of Copyrights as to whether HPA's provision of the alleged inaccurate information would have affected its copyright approval may not be ripe. But, as the Court already noted, Defendants have rebutted the presumption HPA's copyright registration provided by proffering evidence of a lack of originality. As a result, HPA's copyright registration is not dispositive of its ownership in a valid copyright; it must make a showing of authorship, creativity and originality. In other words, an inquiry into HPA's copyright registration is moot at this stage.

Finally, HPA contends that the Court does not have jurisdiction to declare HPA's copyright registrations invalid. The Court agrees that, to the extent Defendants may be asking the Court to declare HPA's copyright registrations cancelled, the Register of Copyrights has primary jurisdiction to make such a declaration. . . .

Apart from conclusory statements regarding the originality of its works, HPA attempts to demonstrate originality in its briefs by drawing a comparison between its unit plans and Defendants' Masse and Jones Plans, but this comparison lacks any citation to the record and is therefore abstract. . . . Otherwise, HPA and Defendants produce controverting evidence of originality through, for example, testimony of an HPA architect that she "did not copy anything from any other source" when she created the HPA plans and drawings . . . and Defendants' expert's testimony regarding the identical nature of the copyrightable elements of the Masse and Jones Plans and HPA's plans and drawings . . . . On a motion for summary judgment, the Court may not weigh the controverting evidence and make a factual finding. . . . Defendants have produced sufficient evidence to create a genuine dispute as to whether HPA's works contain the requisite originality for copyright protection, and the Court must therefore deny HPA's request for summary judgment as to that issue.

BEIJING ZHONGYI ZHONGBIAO ELECTRONIC INFORMATION TECHNOLOGY CO. LTD. V. MICROSOFT CORPORATION
No. 13-36102, 2016 WL 3693475 (9th Cir. Jul. 12, 2016)

Beijing Zhongyi Zhongbiao Electronic Information Technology Co. Ltd. ("Zhongyi") sued Microsoft Corporation ("Microsoft") alleging copyright infringement. The district court dismissed the complaint and Zhongyi appeals. We have jurisdiction, 28 U.S.C. § 1291, and affirm.

Zhongyi argues that the district court erred by finding that the license agreement between Zhongyi and Microsoft included a license to use Zhongyi's fonts in operating systems released after Windows 95. We disagree. The agreement's terms granted Microsoft a "perpetual" license to use the fonts in "any" Microsoft software product.

Central District of California

FAHMY V. JAY-Z
In the instant case, the Court determined that plaintiff had assigned all of his economic rights in Khosara to Jaber and therefore was not "[t]he legal or beneficial owner of an exclusive right under a copyright." Moreover, in reaching this decision the Court cited and relied upon the standard set forth in 17 U.S.C. § 501(b)--the standing provision of the Copyright Act. Accordingly, the Court's ruling is appropriately considered as a determination that plaintiff lacked statutory standing. . . .

[Wh]en the Court ultimately dismissed this case for lack of statutory standing, that did not deprive the Court of subject-matter jurisdiction. Rather, jurisdiction under Article III was independently established because plaintiff claimed, throughout this case, that he had suffered actual damages as a result of defendants' alleged infringement of Khosara.

LEDESMA V. CORRAL

Plaintiffs Manuel Ledesma (“Ledesma”) and Louis Barraza (“Barraza”) bring this dispute over the events preceding the launch of Luis Coronel's (“Coronel”) professional music career. Plaintiffs allege Defendant Coronel, along with Defendants Auturo Corral (“Corral”), Empire Productions Inc. (“Empire”), and Worldwide Empire Productions, LLC (collectively, “Defendants”), have deprived them of substantial compensation for their production and management efforts and infringed upon their existing copyrights. Accordingly, Plaintiffs now bring claims for copyright infringement, breach of contract, breach of fiduciary duty, accounting, and fraud. (Second Am. Compl. [“SAC”] ¶ 1, ECF No. 47.) After this Court granted Coronel's first Motion to Dismiss, Plaintiffs filed a Second Amended Complaint. (ECF Nos. 43, 47.) Now all Defendants move to dismiss (Motion to Dismiss [“Mot.”], ECF No. 53.) For the reasons below, the Court GRANTS Defendants' Motion to Dismiss with prejudice. . . .

Because Plaintiffs have failed to adequately allege facts to support a copyright claim under any infringement theory, the Court GRANTS Defendants' Motion. Moreover, because Plaintiffs failed to provide the Court with the necessary facts after the Court granted leave to amend, the Court grants the Motion with prejudice.

WOLF VS. TRAVOLTA

On February 6, 2014, plaintiff Alisa Wolf (“Wolf”) filed her original complaint in this lawsuit against defendant Joseph “Joey” Travolta, d.b.a. Inclusion Films (“Travolta”), asserting one claim for infringement of plaintiff's copyright in a written curriculum and program guide dated May 10, 2006 and entitled, “Practical Film Vocational Program For People with Developmental Disabilities” (the “first work” or “the May 2006 Work”). . . .

In accordance with the foregoing, defendants' motion for summary judgment is hereby DENIED in part and GRANTED in part.
Specifically, defendants' motion is DENIED insofar as it seeks to invalidate plaintiffs' two underlying copyrights. The motion is GRANTED insofar as (1) it argues that all of plaintiffs' state law claims are time-barred, and (2) it seeks to bar damages from copyright infringement beyond the three years preceding plaintiffs' assertion of the two copyright claims in this suit. In addition, having given the parties notice and a reasonable time to respond pursuant to Federal Rule of Civil Procedure 56(f)(3), the Court hereby GRANTS summary judgment in favor of defendants as to the entirety of plaintiffs' two copyright claims.

MINX INTERNATIONAL INC. V. CLUB HOUSE CREATIONS INC.

On July 24, 2015, plaintiff Minx International, Inc., d/b/a Damask Fabrics ("Minx" or "plaintiff") filed the instant action against defendant Rue 21, Inc. ("Rue 21"), and Does 1-10, inclusive. Dkt. 1 (Compl.). On September 9, 2015, plaintiff filed the operative first amended complaint in this action, which no longer asserts claims against Rue 21, and instead asserts claims against defendants Club House Creations, Inc., ("Club House Creations" or "defendant"), and Does 1-10, inclusive. Dkt. 11 (Compl.). The FAC asserts claims for copyright infringement and "[v]icarious and/or [c]ontributory [c]opyright [i]nfringement" for defendant Club House Creations's alleged misuse of plaintiff's two-dimensional graphic artwork design. See id.

On January 19, 2016, defendant Club House Creations filed a motion to dismiss this action, pursuant to Federal Rule of Civil Procedure 12(b)(6). Dkt. 19 ("Motion"). On February 15, 2016, plaintiff filed an opposition to defendant's motion. Dkt. 21 ("Opp'n"). On February 22, 2016, defendant filed a reply. ("Reply"). Having carefully considered the parties' arguments, the Court finds and concludes as follows. . . .

Defendant argues that the operative FAC fails to state a claim for copyright infringement or for "vicarious and/or contributory copyright infringement" for the following reasons: (1) because plaintiff fails to plead ownership of a valid copyright for its alleged work; (2) because plaintiff fails sufficiently to allege that defendant had access to plaintiff's works; (3) because plaintiff fails to plead substantial similarity between the works at issue; (4) because plaintiff's work is not sufficiently original; and (5) because "the works at issue, as a matter of law, are not substantially similar in copyrightable expression." Motion at 1. For reasons explained in the discussion that follows, the Court disagrees, and accordingly denies defendant's motion to dismiss.

LIONS GATE ENTERTAINMENT INC. V. TD AMERITRADE SERVICES COMPANY, INC.

Presently before the Court is the Motion to Dismiss of Defendants TD Ameritrade Services Company, TD Ameritrade, Inc., Amerivest Investment Management, LLC, and Havas
The Copyright Act preempts rights under common law or state statutes that “are equivalent to any of the exclusive rights within the general scope of copyright as specified by section 106.” The Supreme Court has extended this principle of copyright preemption to the Lanham Act and federal trademark protection.

First, the trademark and unfair competition claims must relate to subject matter within the scope of the Copyright Act for preemption to apply. Section 102 of the Copyright Act extends copyright protection to “original works of authorship fixed in any tangible medium of expression.” The statute specifically includes “motion pictures and other audiovisual works,” such as the film Dirty Dancing, as well as literary works, musical works, and choreographic works — all of which may be at issue here with the song, the screenplay quote, and the dance lift. Therefore, copyrighted and copyrightable subject matter is involved in Plaintiff's unfair competition and trademark causes of action.

The Court cannot see how this is different from a copyright infringement claim, or a claim that Defendants have failed to obtain the permission of the author of the “idea, concept, or communication embodied in those goods” Plaintiff claims to have licensed to use its phrase. Assuming copyrights in the line “Nobody puts Baby in a corner,” or in the film Dirty Dancing, an unauthorized use of the copyrighted work includes copying the work and distributing it to the public as well as making an unauthorized derivative work — like making an advertisement using copyrighted work and distributing the ad to the public.

The only difference between Plaintiff's copyright and trademark claims is that in the latter claims, Plaintiff's allege that consumers will be confused by the unauthorized use as to Lions Gate's association with the TD Defendants and their services. But the same rights are alleged in the causes of action — the right to be the exclusive licensor and user of the sentence “Nobody puts Baby in a corner.” Therefore, Plaintiff's trademark infringement and unfair competition causes of action are also dismissed with prejudice because they are preempted by the Copyright Act and so any amendment would be futile.

ASTOR-WHITE V. STRONG
No. CV 15-6326 PA (RAOX), 2016 WL 1254221 (C.D. Cal. Mar. 28, 2016)

Before the Court is a Motion to Dismiss filed by defendants Daniel Strong, Lee Daniels, Imagine Television, LLC, and Twentieth Century Fox Film Corp. (collectively “Defendants”) (Docket No. 20). Defendants challenge the sufficiency of the First Amended Complaint (“FAC”) filed by plaintiff Jon Astor–White (“Plaintiff”).

For all of the foregoing reasons, the Court concludes that the FAC fails to state a viable claim for copyright infringement. Specifically, far from alleging facts that could support a reasonable basis for finding that Defendants could have accessed Plaintiff's work, the FAC instead pleads facts

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that are incompatible with access. No amendment that is consistent with the access allegations contained in the FAC could cure these deficiencies. Additionally, an objective extrinsic analysis of the two works reveals that they are not substantially similar in their protectable elements. Because Plaintiff's treatment is the sole basis for his infringement claim, and that treatment is not substantially similar to “Empire,” the Court concludes that any amendment would be futile. The Court therefore grants Defendants' Motion to Dismiss and dismisses the FAC without leave to amend.

**SKIDMORE V. LED ZEPPELIN**
No. CV153462RGKAGRX, 2016 WL 1442461 (C.D. Cal. Apr. 8, 2016)


For the foregoing reasons, the Court GRANTS Defendants' Motion for Summary Judgment as to the Right of Attribution claim and as to all claims against John Paul Jones, Super Hype Publishing, Inc., and Warner Music Group Corp. The Court also GRANTS Defendants' request to limit Plaintiff's damages to 50% of the recovery (his share as a beneficial owner). The Court DENIES Defendants' Motion for Summary Judgment as to the Copyright Infringement claim against the remaining Defendants.

**ESTATE OF GRAHAM V. SOTHEBY'S, INC.**

Before the Court are three Motions filed in these related actions. Having considered the papers filed on the Motions and the parties' arguments at the hearing held on March 21, 2016, the Court rules as follows:

The Joint and eBay Motions are GRANTED to the extent they argue that the California Resale Royalty Act (“CRRA”) is preempted under the Copyright Act of 1976. The CRRA stands in conflict with the first sale doctrine codified in 17 U.S.C. § 109(a), which prohibits copyright holders from exercising downstream distribution control of their products. Because the CRRA regulates secondary transactions of fine art by permitting artists to recover unwaivable royalties from resellers, the state law frustrates the purpose of § 109(a) and disrupts the equilibrium of the Copyright Act. Plaintiffs' claims, moreover, are independently preempted under the express
preemption clause of 17 U.S.C. § 301(a) because they are not qualitatively different from garden-variety copyright claims.

The eBay Motion is also GRANTED to the extent it contends that Defendant eBay is not a proper Defendant under the CRRA. Plaintiffs' allegations that Defendant eBay acted as a seller or a seller's agent are implausible in light of the functionality of Defendant eBay's website. Because the CRRA imposes liability on only sellers of fine art or their agents, Plaintiffs' claims against Defendant eBay are deficient.

The Joint and eBay Motions are DENIED, however, to the extent they claim that the CRRA violates the Takings Clause of the Fifth Amendment and that Plaintiffs' allegations against Defendants Sotheby's and Christie's fail under Rule 8. As to the Takings Clause, the property interests in royalties belong to Plaintiffs, not to Defendants or their clients. There can be no "takings" under these circumstances. And as to Plaintiffs' allegations, the Complaints plead sufficient plausible facts to put Defendants Sotheby's and Christie's on notice of their misconduct.

The Sotheby's Motion is DENIED. The jurisdictional arguments Defendant Sotheby's makes are so intertwined with the merits of these actions that they are not appropriately adjudicated under Rule 12(b)(1).

WOLF V. TRAVOLTA

Through the instant motion, defendants seek full compensation of $351,114.33 for the costs and attorneys' fees incurred in defending against this suit.1 In light of the Court's application of the Fogerty factors in the discussion that follows, the Court finds that an award of costs and attorneys' fees is not appropriate in this case. . . .

Because the Court expressly denied defendants' motion as to the invalidity of plaintiffs' underlying copyrights and ultimately granted summary judgment based only upon the statute of limitations, the Court concludes that the degree of success obtained by defendants does not support an award of attorneys' fees. . . .

[B]ecause the Court finds that plaintiffs' factual and legal arguments in this suit were not objectively unreasonable, this factor weighs against awarding attorneys' fees to defendants. . . . 
"[F]or the same reasons that the Court found [p]laintiffs' claims were not objectively unreasonable, the Court finds that [p]laintiffs' claims were not frivolous."

[T]he Court does not find the existence of bad faith or an improper motive on the part of plaintiffs themselves in bringing or pursuing this action. . . . Simply put, it is not the province of the Court here to conclude that any further litigation regarding plaintiffs' copyrights is objectively unreasonable or should be deterred simply because plaintiffs' claims were time-barred in this action. Of course, the validity of plaintiffs' underlying copyrights will likely be a
live issue in the Michigan suit; "it is not the purpose of the Copyright Act 'to deter litigants from bringing potentially meritorious claims, even though those claims may be ultimately unsuccessful.'"

ROBERTS V. SWALLOW ET AL.

This matter is before the Court on Defendants Eric Swallow ("Swallow") and Profitable Casino, LLC's ("Profitable Casino") (together, "Defendants") Motion to Remand to State Court and Request for Attorney's Fees of $30,555 Under 28 U.S.C. § 1447 ("Motion"), filed June 29, 2016. Plaintiff Bryan J. Roberts ("Roberts" or "Plaintiff") opposed the Motion ("Opposition") on July 11, 2016, and Defendants replied ("Reply") on July 18, 2016. The Court found this matter suitable for disposition without oral argument and vacated the hearing set for August 1, 2016. . . . For the following reasons, the Court GRANTS IN PART and DENIES IN PART Defendants' Motion, REMANDING the action to the Superior Court of California for the County of Los Angeles but DENYING Defendants' request for attorneys' fees. . . .

[It] is well-established that "[a] co-owner of a copyright cannot be liable to another co-owner for infringement of the copyright." . . . This is because "each co-owner has an independent right to use or license the use of the copyright." . . . Further, while "[a] co-owner of a copyright must account to other co-owners for any profits he earns from licensing or use of the copyright," . . . "his duty to account to other co-owners for profits arises from equitable doctrines relating unjust enrichment and general principles of co-ownership, and does not amount to an infringement claim." . . . Thus, "[a]n action for an accounting or determination of ownership as between alleged co-owners is founded in state law and does not arise under the copyright laws." . . . It follows that, to the extent the parties' dispute concerns the ownership of the copyright in the Software, such a dispute does not "arise under the copyright laws.'

ESTATE OF ROBERT GRAHAM, ET AL. V. SOTHEBY'S, INC.

Before the Court is Plaintiffs' Motion to Alter or Amend Judgment Pursuant to Fed. R. Civ. Proc. 59(e) (the "Motion"), filed in all three related actions on May 9, 2016. . . . The Motion is DENIED. Plaintiffs seek to relitigate the same issues that have already been decided in the Court's Order Re Motions to Dismiss (the "Order") . . . As stated at both hearings and below in this Order, the Court would prefer to follow the Morseburg decision and deny the Motion, if only because that would give the appearance of being more respectful of Ninth Circuit authority. This Court, however, must follow the Miller decision, has a fundamental duty to follow Supreme Court precedent, and takes a view of the first sale doctrine that removes the totality of this ruling from the ambit of Morseburg. Accordingly, this Court denies the Motion.
Eastern District of California

WILD V. BENCHMARK PEST CONTROL, INC.

Plaintiff Alexander Wild, doing business as Alex Wild Photography, asserts he took a photo of an ant that he registered with the United States Copyright Office. Plaintiff contends Defendant Benchmark Pest Control used the photo on its website, without permission from Plaintiff, and is liable for Copyright Infringement. (Doc. 1)

Defendant responded to the allegations by filing an Answer, and identified eleven affirmative defenses. (Doc. 8) Plaintiff now seeks to strike each of the affirmative defenses.1 (Doc. 11) For the following reasons, Plaintiff's motion to strike is GRANTED IN PART. . . .

Plaintiff asserts this affirmative defense fails because it lacks factual support and is immaterial to his claims. (Doc. 11 at 4, 8) In general, waiver is an “intentional relinquishment or abandonment of a known right.” . . . Notably, the Ninth Circuit has determined that in a copyright infringement action, “waiver or abandonment of copyright,” which “occurs only if there is an intent by the copyright proprietor to surrender rights in his work.” . . . Here, there is no indication in Defendant's answer that Plaintiff engaged in activity that constitutes a waiver or abandonment of his copyright. Without supporting factual allegations, the assertion that the doctrine of waiver is applicable is insufficient. . . . Because, as Defendant concedes, the Fourth Affirmative Defense lacks factual support, the defense is STRICKEN with leave to amend. . . .

Significantly, defendants asserting a fair use of a copyrighted work must allege some facts to give a plaintiff notice of how the defense is applicable in the action. . . . Though Defendant states it believes Plaintiff's actions cause the material to fall within the fair use exception, Defendant fails to explain why it thinks so. Indeed, the defense fails allege any facts addressing the factors set forth above, demonstrating the use was fair. Merely citing to the statute is insufficient. Because Defendant fails to allege facts regarding how the doctrine of fair use applies here, the defense is insufficiently pleaded. Therefore, Plaintiff's motion to strike the Sixth Affirmative Defense is GRANTED, and the defense is stricken with leave to amend. . . .

Plaintiff argues this affirmative defense is immaterial “because 17 U.S.C. § 113(c) is applicable where the use is lawful.” (Doc. 11 at 8) Plaintiff contends, “Defendant's use is not lawful because Defendant has not obtained Plaintiff's permission to use the image.” (Id. at 8-9) Contrary to Plaintiff's argument, pursuant to the terms of Section 113(c), permission is not required for the use of an image. Nevertheless, Defendant has not pleaded facts to support the assertion that the use was exempted pursuant to Section 113(c), such as whether the image was produced in a news report or an article available to the public, and whether Defendant's use was made in connection with any article or news report. Accordingly, Plaintiff's motion to strike the Seventh Affirmative Defense is GRANTED and the defense is stricken with leave to amend.

FOLKENS V. WYLAND (NFN)
This action arises from a copyright dispute between Plaintiff Folkens dba A Higher Porpoise Design Group ("Plaintiff") and Defendants Wyland (NFN), Wyland Worldwide, LLC, Wyland Galleries, Inc., and Signature Gallery Group, Inc. (collectively, "Defendants"). Defendants filed a motion for summary judgment (Doc. #33). This Order addresses the first claim for relief for copyright infringement as to the painting by Wyland entitled “Life in the Living Sea”; the Court took this portion of Defendants' motion under submission at the hearing on March 22, 2016. For the reasons stated below, the Court GRANTS the motion.

The main similarity between Wyland's “Life in the Living Sea” and Plaintiff's “Two Dolphins” is two dolphins swimming underwater, with one swimming upright and the other crossing horizontally. . . . But this idea of a dolphin swimming underwater is not a protectable element.

Moreover, Plaintiff has “failed to identify any elements” of his work “that are not commonplace or dictated by the idea of [two] swimming dolphin[s],” . . . The concept of two dolphins crossing underwater “necessarily follow[s] from the idea of” two dolphins swimming together. Id. Specifically, the cross-dolphin pose featured in both works results from dolphin physiology and behavior since dolphins are social animals, they live and travel in groups, and for these reasons, they are commonly depicted swimming close together.

Presently pending before the court is plaintiff Alexander L. Wild d/b/a Alex Wild Photography's motion for entry of a default judgment against defendant Dean Peterson d/b/a Certified Pest Management, who is the only named defendant in this action. (ECF No. 13.) Plaintiff's motion was initially filed on March 22, 2016. (Id.) On April 8, 2016,...

In sum, without committing fraud defendant would not have been in the position to undertake the conduct that served as the basis of plaintiff's software claim. Accordingly, the court declines to award attorney's fees.

MEDIA.NET ADVERTISING FZ-LLC V. NETSEER, INC.

Plaintiff Media.net Advertising FZ-LLC initiated this lawsuit against Defendant NetSeer, Inc. The First Amended Complaint ("FAC") asserts two claims of copyright infringement, as well as claims of intentional interference with business contract, intentional interference with prospective business relationship, and violations of California's Unfair Competition Law ("UCL"), California Business and Professions Code section 17200 et seq. Docket No. 32.
Defendant moves for summary judgment on the copyright infringement claims and to dismiss the state law claims. Docket No. 36. In the alternative, Defendant seeks dismissal of the copyright claims or a more definite statement. Id. Having considered the parties' briefs and oral argument, as well as the relevant legal authority, the Court hereby DENIES Defendant's Motion for Summary Judgment and GRANTS IN PART Defendant's Motion to Dismiss. . . .

Accordingly, the Court finds Plaintiff's copyright registrations contain copyrightable subject matter and are valid. . . .

As such, Plaintiff has likely adequately pled the first element for both of its copyright infringement claims. . . .

The problem is that the FAC fails to set forth facts that explain how Defendant copied the copyrighted material. Plaintiff's FAC does not describe how Defendant had access to Plaintiff's HTML code. It instead makes conclusory assertions that Defendant copied the HTML code from Plaintiff's search results pages and does not explain how Defendant had access to it. See Jordan-Benel, 2015 WL 3888149, at *10 (“To allege access, [the p]laintiff must allege facts suggesting a ‘reasonable opportunity’ or ‘reasonable possibility’ of viewing the plaintiff's work.”) (quoting Three Boys Music Corp. v. Bolton, 212 F.3d 477, 482 (9th Cir. 2000)). In addition, the FAC does not list every portion of Plaintiff's HTML code that Defendant allegedly infringed. At the hearing, counsel for Plaintiff represented that the list contained in the FAC is not an exclusive list, but merely provides examples of the alleged infringement. See FAC ¶ 47. Given this representation, it appears there may be other portions of the HTML code that Defendant allegedly copied. Dismissal is thus warranted as Plaintiff fails to identify which sections it alleges Defendant copyrighted. See Reinicke v. Creative Empire, 2013 WL 275900, at *6-7 (N.D. Cal 2013 Jan. 24, 2013) (dismissing complaint where the plaintiff failed to identify which portions of the work the defendant allegedly infringed).

The Court grants Defendant's motion to dismiss but grants Plaintiff leave to amend to identify each portion of the HTML code Defendant allegedly infringed and to allege facts regarding Defendant's access to Plaintiff's HTML code.

RYAN V. EDITIONS LIMITED WEST, INC.

Having traveled to the Ninth Circuit and back multiple times, Plaintiff Victoria Ryan once again seeks attorney's fees and Defendants Editions Limited West, Inc. et al. oppose.1 Ryan's motion is GRANTED-IN-PART, and no later than February 2, 2016, ELW shall remit payment to her in the total amount of $349,083.00.

REGAL ART & GIFTS, INC. V. FUSION PRODUCTS, LTD.
On December 22, 2015, Defendants Fusion Products, Ltd. and Menard, Inc. filed a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). (Defs.’ Mot., Dkt. No. 11.) Additionally, Menard moves to dismiss for lack of personal jurisdiction under Rule 12(b)(2).

On February 4, 2016, the Court held a hearing, and after careful consideration of the parties' arguments, for the reasons set forth below, the Court GRANTS IN PART AND DENIES IN PART Defendants' motion to dismiss. . . .

Third, is whether the nonresident defendant should have foreseen that it would cause harm in California. Generally, a defendant is found to know that the action would cause harm in the state in which the copyright holder is located. . . . Menard argues that it was not aware of Plaintiff or Plaintiff's copyright, let alone Plaintiff's location, until after it received the cease and desist letter, so the harm in California was not foreseeable. (Defs.'Mot. at 14; Decl. of Jeffrey R. Sacia ¶ 10.) In opposition, Plaintiff contends that it is one of the top five suppliers of garden decor in the United States, such that it is highly unlikely that Menard had never heard of it. (Pl.'s Opp'n at 10.) Additionally, Plaintiff argues that Menard should have known that the accused product was copyright protected by a company residing in California because the cease and desist letter was sent by counsel located in the Northern District. Id.

Generally, a sale made after an entity was made aware that it was selling an allegedly infringing product is sufficient to infer that it knew that its action would cause harm in the forum. . . . The operative complaint, however, does not contain any facts regarding the cease and desist letter.

Thus, while the complaint does not currently allege sufficient facts to show that Menard should have foreseen that it would cause harm in California, Plaintiff is granted leave to amend to do so. . . .

As an initial matter, Defendants contend that the fourth (intentional interference), fifth (negligent interference), and sixth (unfair competition) causes of action are preempted by the Copyright Act. . . .

It is undisputed that the Solar Mushroom Stake Dragonfly falls within the category of pictorial, graphic, and sculptural works. See 17 U.S.C. § 102(a)(5). . . .

In the preemption context, the focus is on whether the right invoked by the state law claim is protected by the Copyright Act. In other words, if the state law claim turns upon the existence of a copyright, then the claim is preempted. . . . If the claim addresses a different right, as in the case of breach of contract, the claim is said to have an “extra element,” and survives preemption. . . . Since the interference claims turn on the existence of the copyright, they are preempted. . . .

To the contrary, like the inference claims discussed above, any claim pertaining to the goodwill and deceiving the public is based wholly on Defendants' allegedly unauthorized copying and distribution of the Solar Mushroom Stake Dragonfly. Since § 106 of the Copyright Act protects against unauthorized copying and distribution, the unfair competition claim does not protect a right that is qualitatively different. Thus, the unfair competition cause of action is preempted.
PHANTOMALERT, INC. V. GOOGLE INC.

Plaintiff PhantomALERT, Inc. (“PhantomALERT”) asserts copyright infringement and conversion claims against Defendants Google Inc. (“Google”) and Waze, Inc. (“Waze”) based on alleged copying of its “Points of Interest” database. On December 14, 2015, the Court granted in part Defendants' Motion to Dismiss, finding that PhantomALERT had not sufficiently alleged a claim for copyright infringement and dismissing the complaint with leave to amend. The Court did not address Defendants' challenges to Plaintiff's state law claim for conversion. PhantomALERT filed its First Amended Complaint (“FAC”) on January 13, 2016 and Defendants now bring a Motion to Dismiss Plaintiff's First Amended Complaint (“Motion”). A hearing on the Motion was held on March 4, 2015 at 9:30 a.m. For the reasons stated below, the Motion is GRANTED and the FAC is dismissed with leave to amend as to the copyright claim.

Applying these principles to the case at hand, PhantomALERT can state a claim for copyright infringement only if it can allege facts supporting a plausible inference that: 1) it has a protectable copyright interest in the Points of Interest database based on originality associated with the individual Points of Interest, the database as a whole, or both; and 2) Defendants copied the Points of Interest or the database as a whole in a manner that preserved the originality that gives rise to copyright protection. For the reasons stated below, the Court concludes that the allegations in the FAC are sufficient to demonstrate a protectable copyright interest but not to support a plausible inference of copying.

AUTODESK, INC. V. KOBAYASHI + ZEDDA ARCHITECTS LTD.

Defendant Kobayashi + Zedda Architects Ltd., dba KZA ("Defendant") moves to dismiss Plaintiff Autodesk, Inc.'s ("Plaintiff") copyright infringement action for lack of personal jurisdiction under Federal Rule of Civil Procedure ("Rule") 12(b)(2), improper venue under Rule 12(b)(3), and failure to state a claim upon which relief can be granted under Rule 12(b)(6). . . The Court finds this matter suitable for disposition without oral argument and VACATES the May 5, 2016 hearing. . . Having considered the parties' positions, relevant legal authority, and the record in this case, the Court DENIES Defendant's Motion for the following reasons. . .

Having reviewed Plaintiff's allegations and construing them in the light most favorable to it, the Court finds Plaintiff has stated a plausible claim. "Copyright is a federal law protection provided to the authors of 'original works of authorship,' including software programs." . . . Copyright infringement occurs whenever someone "violates any of the exclusive rights of the copyright owner." . . . As a copyright owner, Plaintiff possesses the exclusive right to reproduce its work. . . Plaintiff alleges Defendant has copied and reproduced its products without permission and circumvented technological measures designed to control access to them. . . It provides a list of
nine Autodesk copyright registrations. Id., Ex. A. While Plaintiff does not state whether Defendant has allegedly infringed upon all these products, the Court finds Plaintiff's allegations provide fair notice to Defendant of the claims against it. Further, given the parties' business relationship that spans a period of years, it is likely that discovery will crystallize the extent of Plaintiff's infringement allegations. Accordingly, the Court DENIES Defendant's 12(b)(6) Motion to Dismiss.

ORACLE AMERICA, INC. V. GOOGLE INC.

In this copyright infringement action, the copyright owner seeks to exclude portions of the testimony of the accused infringer's technical expert on issues related to fair use and seeks partial summary judgment that the accused infringer's use was not transformative. The final pretrial order Granted in Part and Denied in Part plaintiff Oracle America, Inc.'s motion, ruling that Dr. Owen Astrachan may not offer testimony regarding his "understanding" that "transformativeness" means "opening new horizons," that he must be clear that his references to compatibility and interoperability relate only to the expectations and conventions of Java developers, and that he must not offer conclusions regarding the economic effect of Android on the market for Java.

ORACLE AMERICA, INC. V. GOOGLE INC.

In this copyright infringement action, the accused infringer seeks to exclude evidence relating to new implementations of its software platform that are not accused herein. The final pretrial order Granted defendant Google Inc.'s motion and ruled that evidence regarding Android Wear, Android Auto, Android TV, and Brillo would be excluded from the forthcoming trial.

ORACLE AMERICA, INC. V. GOOGLE INC.

Plaintiff moves to exclude testimony based on portions of the report of defendant's damages expert as well as portions of his reply report. The final pretrial order Granted in Part and Denied in Part plaintiff's motion, ruling that Dr. Gregory Leonard may not offer any disgorgement analyses based on non-infringing alternatives (except to meet Oracle's argument that Google had no choice but to infringe in order to meet a limited window of opportunity). That order also held that Leonard may not rely on the Kim model for any purpose.

ORACLE AMERICA, INC. V. GOOGLE INC.
In this copyright infringement action involving Java and Android, plaintiff moves to exclude the survey and opinion of defense expert Dr. Itamar Simonson. The final pretrial order held that Google could offer Simonson's testimony subject to the following limitations. Simonson must make clear that his survey was directed at the factors that developers consider in general when determining which platform to develop for, and he may not offer any conclusion about whether that general proposition is specifically applicable to 2007-08. Simonson may not opine about the meaning that survey respondents attributed to the ambiguous and overlapping terms "popularity," "established user base," or "market demand." Simonson must adjust his testimony to reflect only the conclusions in his survey without the inclusion of pre-testing results.

ORACLE AMERICA, INC. V. GOOGLE INC.

In this copyright infringement action involving Java and Android, defendant moves to exclude the report and testimony of plaintiff's expert on damages. For the following reasons, the motion is Denied in Part.

ORACLE AMERICA, INC. V. GOOGLE INC.

In this copyright infringement action, the accused infringer moves to exclude portions of the testimony of the copyright owner's damages/disgorgement expert, James Malackowski. The final pretrial order GRANTED IN PART AND DENIED IN PART defendant Google Inc.'s motion to exclude portions of Malackowski's testimony. Specifically, it excluded Malackowski's conclusions that Oracle was entitled to recover the entire contribution of the Android platform to the revenue streams he considered, and that no further apportionment was possible. It also excluded Malackowski's lost profits analysis to the extent it relied on a revenue forecast beyond 2011. Finally, it excluded certain testimony regarding Project Acadia.

OPENWAVE MESSAGING, INC. V. OPEN-XCHANGE, INC.
No. 16-CV-00253-WHO, 2016 WL 2621872 (N.D. Cal. May. 9, 2016)

This lawsuit stems from the disintegration of the business relationship between plaintiff Openwave Messaging, Inc. (Openwave) and defendant Open-Xchange, Inc. (OX). Openwave asserts eleven claims, including copyright infringement, false advertising, breach of contract and numerous business torts, as a result of OX's conduct. Openwave's federal claims are not adequately pleaded - it has not sufficiently alleged infringement of its copyright in the United States . . . .

Openwave relies on paragraph 46 of its complaint that "OX's misconduct has negatively impacted a number of Openwave's existing clients across the globe," as support for "infringement in the United States." . . . However, in that section of its Complaint, Openwave
details examples of OX's alleged bad acts with customers based in the United Kingdom, the UAE, Europe, and Asia. . . There is no express allegation and no factual examples supporting an assertion of infringement within the United States. Openwave also cites paragraph 16 - alleging that Open-Xchange, Inc. is incorporated in Delaware and has an office in Palo Alto - as well as paragraphs 86-95 - containing Openwave's general copyright infringement allegations. Id. But these paragraphs do not specifically allege or allow the reasonable inference that copyright infringement has occurred in the United States.

UNITED STATES OF AMERICA V. SHAYOTA

On March 23, 2016, the defendants in this action filed pre-trial motions. . . . [T]he offense charged under the general conspiracy statute in Count Two, conspiracy to commit criminal copyright infringement, does not require proof of the use of a registered trademark. Rather, the jury must find an agreement to willfully infringe a copyright for commercial advantage or private financial gain. 17 U.S.C. § 506(a)(1)(A). Count One does not require infringement of a copyright.

BALIK V. TOY TALK, INC.

Before the Court is Defendants' Joint Motion to Dismiss Plaintiff's Third Amended Complaint. . . . The motion is granted, and because further amendment would be futile, the case shall be dismissed with prejudice. . . .

Defendants contend that Plaintiff's copyright infringement claim is implausible because he has failed to allege a valid copyright. . . . They note that Plaintiff has failed to register his copyright with the Copyright Office, and further that he appears to be alleging a copyright in an underlying idea for toy design, which is expressly prohibited by the Copyright Act. . . .

Plaintiff does not appear to contest that he is seeking copyright protection for an idea rather than a specific work of original authorship. . . . Instead, Plaintiff seems to argue in his opposition that he has sufficiently demonstrated the originality of his idea, and cites to Satava v. Lowry. . . and Aliotti v. R. Dakin & Co. . . . This argument is not relevant to Defendants' contention that Plaintiff cannot obtain copyright protection for an idea rather than a work, and in any event, Defendants persuasively argue that this argument is not true in light of Plaintiff's allegations that toymakers had already been considering the same concept. . . . Finally, although Plaintiff does allege that he expressed his ideas "via PowerPoint docs," . . . he has not alleged any infringement of text, images, or other expressive content contained in those PowerPoint documents.

Accordingly, the Court concludes Plaintiff has not plausibly alleged a claim for copyright infringement, and grants Defendants' Motion to Dismiss in regards to that claim.
FRANS LANTING, INC. V. MCGRAW-HILL GLOBAL EDUCATION HOLDINGS, LLC

Before the court is Plaintiff Frans Lanting, Inc.'s revised motion for leave to amend the complaint in this copyright infringement action against Defendants McGraw-Hill Education Global Education Holdings, LLC and McGraw-Hill School Education Holdings, LLC (collectively "Defendants" or "MHE"). . . . Plaintiff alleges that Defendants' use of certain photos infringed Plaintiff's copyrights by using them beyond the scope of the applicable license agreements. In the revised First Amended Complaint, Plaintiff seeks to remove sixty-six of the ninety-seven originally pleaded claims which have been shown by Defendants' usage data to be noninfringing. Plaintiff also seeks to add seventy-two new claims for copyright infringement. The court determined that this matter is appropriate for adjudication without oral argument. See Civil Local Rule 7-1(b); [Docket No. 46]. After carefully considering the parties' submissions, the court GRANTS the motion.

VINTERACTIVE, LLC V. OPTIREV, LLC

On June 17, 2016, the Court held a hearing on defendant/counterclaimant OptiRev, LLC's motion to compel production of certain documents and for costs incurred. For the reasons set forth below, the motion is GRANTED in part. . . .

On November 9, 2015, OptiRev requested three broad categories of documents from VinterActive: (1) copies of "all copyright applications, registration forms, registration certificates made with the United States Copyright Office that relate to the subject matter of this litigation," (2) copies of "all documents, from May 2015 through and including the date of production, that memorialize, refer, or pertain to any communication between [VinterActive] on one hand, and The United States Copyright Office on the other, which relate to the subject matter of this litigation," and (3) copies of "all copyright... deposits made with the United States Copyright Office that relate to the subject matter of this litigation." . . .

The Court finds that exact copies of the applications, deposited works, registrations, and correspondence are relevant to both VinterActive's claims and OptiRev's counterclaims. . . . It appears that VinterActive has made good faith, though unsuccessful, efforts to obtain these documents from its former counsel. Because VinterActive's former counsel, who filed the applications at issue, has failed to respond to VinterActive's requests, combined with the fact that there are discrepancies between the documents produced by VinterActive and the registrations, the Court finds it appropriate to order VinterActive to obtain the complete file from the Copyright Office. Additionally, to the extent that any correspondence between VinterActive and the Copyright Office was prepared in anticipation of settlement, the Court finds that any protection offered by work product is overcome by necessity. . . . VinterActive is ordered to obtain the files because, according to counsel, the cost will be considerably less for VinterActive
to obtain them, than it would be for OptiRev to do so. Under the circumstances, however, and because the complete file will assist both sides in achieving a fair resolution of this action, it is appropriate that the cost of obtaining the materials from the Copyright Office be split, 50/50, between the parties. The Court further finds that monetary sanctions are unjustified as VinterActive displayed good faith in its beliefs and supplementary responses.

PHOENIX TECHNOLOGIES LTD. V. VMWARE, INC.

In this copyright infringement case, Defendant VMware, Inc. ("VMware") moved to compel in camera review and production of documents withheld by Plaintiff Phoenix Technologies Ltd. ("Phoenix") upon its assertion of attorney-client and work product privileges. . . . On April 14, 2016, following a hearing, the court granted VMware's motion in part, and ordered Phoenix to submit for in camera review documents withheld solely on the basis of the work product doctrine. . . . Having reviewed the documents in camera, the court now enters the following order on VMware's motion to compel production.

LANCASTER V. ALPHABET INC.

Pending before the Court is Defendants' motion to dismiss Plaintiff's complaint in its entirety. Dkt. No. 17 ("Motion"). For the reasons articulated below, the Motion is GRANTED. . . .

Plaintiff's copyright infringement claim alleges that Defendants engaged in "massive intentional copyright infringement" by "falsely claiming copyright of public domain works." . . . Plaintiff does not contend that she owns a valid copyright to any of the videos at issue, and as a private party, she cannot assert a claim for fraudulent copyright notice under 17 U.S.C. § 506(c). The Court GRANTS Defendants' motion to dismiss Plaintiff's copyright infringement claim.

DIAMOND FOODS, INC. V. HOTTRIX, LLC

This is a case about two software applications for mobile devices ("apps") that depict popcorn. Plaintiff and Counter-Defendant Diamond Foods, Inc. ("Plaintiff") offers an app in the "Food & Drink" category of app stores that depicts popcorn popping, which Plaintiff describes as a tool to assist in microwaving popcorn to perfection. Defendant and Counter-Claimant Hottrix, LLC ("Defendant") offers an app in the "Game" category that enables users to do tricks with snack foods, including popcorn. Plaintiff filed this suit as a declaratory action, claiming that it does not infringe Defendant's trade dress or copyrights, and Defendant counterclaimed. Plaintiff now asks the Court to dismiss Defendant's counterclaims and grant judgment in its favor on its declaratory relief action. As stated below, although the Court agrees with many of Plaintiff's arguments, it DENIES the motion because none of the asserted claims can be dismissed in their entirety. . . .
The Court finds that, just as "no copyright protection may be afforded to the idea of producing a glass-in-glass jellyfish sculpture or to elements of expression that naturally follow from the idea of such a sculpture," . . . no copyright protection may be afforded to the idea of producing an app with popcorn popping on a mobile device screen or to elements of expression that "naturally follow" from such an idea. Thus, Defendant's allegation that both apps "display[ ] moving images of popcorn popping on the screen and filling the screen as if the device were the container" does not suffice to state a copyright infringement claim. On the other hand, as Defendant correctly notes, expressive elements that do not "naturally follow" from that idea are protectable, and allegations of such elements would suffice to state a claim.

With that in mind, the Court considers the nine expressive elements that Defendant seeks to protect: (1) the "approximately white" color and "fully popped" shape of the kernels; (2) the use of only "a few identical images" to "depict popped kernels;" (3) the sequential popping of the kernels; (4) showing each popped kernel as it pops; (5) the shallowness of the virtual container, which is only two to three popped kernels deep; (6) the vertical orientation of the virtual container; (7) displaying popped kernels as the same size, regardless of their distance from the viewer; (8) bright lighting that appears to illuminate the popped kernels from the same direction regardless of the kernel's movement; and (9) the perspective of looking straight into the side of the virtual container. . . .

Having determined that Defendant has sufficiently alleged four protectable elements- sequential "popping," visibility of popped kernels when they "pop," size independent of distance, and consistent lighting-the Court now considers Defendant's argument that Defendant's selection, coordination, and arrangement of the protectable and unprotectable elements together warrants protection. . . . The Court agrees with Defendant that its combination of the nine asserted elements satisfies this low bar, particularly given the Court's finding above that four of the elements are protectable. If anything, combining elements that do not "naturally follow" from an idea increases the level of creativity a work possesses. Thus, Defendant's combination of the nine asserted elements qualifies for protection. . . .

[T]he apps exhibit moving images on a small screen, making differences in timing, lighting, and perspective impossible to determine on an objective basis at this stage. Though the Court has judicially noticed the apps, it cannot base any ruling on subjective determinations regarding its experience of the apps. While certain determinations about "subject matter, shapes, colors, materials, and arrangement" can be made objectively-for example, both apps show popcorn but exhibit different actions, as discussed above-the Court cannot determine whether the apps' timing of "popping," visibility of popped kernels when they "pop," size independent of distance, and lighting are objectively dissimilar. The movement occurs too quickly and the lighting is on too small of a scale to make any such determination objectively. This is true both for the combination of the elements, and for each protectable element separately.

As a result, the Court DENIES Plaintiff's motion to dismiss the copyright claim. However, the Court cautions that the Ninth Circuit has affirmed numerous determinations at summary judgment that a limited number of protectable elements-here, only one-does not "comprise a core
of protectable and unlicensed similarities substantial enough to warrant a finding of illicit copying under a standard of substantial similarity."

ERICKSON PRODUCTIONS INC. V. KAST

Jim Erickson is a professional photographer who makes his living by licensing his photographs through his company, Erickson Productions, Inc. Mr. Erickson and Erickson Productions, Inc. will be referred to collectively here as "Erickson." . . .

Following a three-day trial, the jury rendered a verdict for Erickson as to each of the photos in question. Although the jury did not find that Kast directly infringed the photos, they determined that he was liable for vicarious and contributory infringement and, further, that the infringement was willful. The jury awarded Erickson the maximum $450,000 in statutory damages, and judgment was entered accordingly. The matter is on appeal.

Pursuant to 17 U.S.C. § 505, Erickson moves for an award of attorney's fees. Kast opposes the motion. No one requested a hearing on this matter, and the court finds that no oral argument is necessary. . . . Upon consideration of the moving and responding papers, this court denies the motion without prejudice.

ORACLE AMERICA, INC. V. HEWLETT PACKARD ENTERPRISE COMPANY

This is a copyright infringement action brought by Oracle America, Inc. ("Oracle") against Hewlett Packard Enterprise Company ("HP"). Before the Court is HP's Motion to Dismiss. . . . The motion will be granted in part and denied in part. . . .

1. Direct Copyright Infringement . . . The Court agrees with Oracle. HP does not contest that the Solaris Updates are protected as derivative works of the fourteen copyrights identified in the Complaint. . . . Rather, HP simply takes issue with the fact that Oracle's Complaint does not specifically identify which of the 14 copyrights at issue HP is alleged to have infringed directly. Id. However, HP does not cite any authority for the proposition that Oracle must tie specific acts of infringement to individual copyright registrations.

Once again, the Court finds HP's arguments unconvincing. Paragraph 51 of the Complaint alleges that "HP engineers obtained Solaris Updates from Terix and then installed those update on [HP's customer's] Oracle/Sun Servers." . . . Paragraph 51 also specifically identifies that customer by name. . . . Moreover, the Court rejects HP's argument based on the Complaint's purported failure to specifically state that the customer identified in Paragraph 51 "did not have a support contract for the servers on which [HP] allegedly installed updates." . . . The very same paragraph of the Complaint states that HP engineers installed the Solaris Updates on HP's customer's servers "knowing that such conduct violated Oracle's copyrights." . . . The Complaint
also asserts that "a former HP employee who supported the [customer's] account, testified in the
Terix litigation that he raised concerns with HP executives (that were escalated to the HP legal
department) about whether Terix had the lawful right to provide Solaris Updates." . . .
Additionally, the Complaint alleges that HP "ignored its employees' concerns...and continued to
install Solaris Updates on [the customer's] servers—even though it knew that Terix had no lawful
right to provide Solaris Updates...." . . . These allegations, especially when combined with the
remainder of Oracle's complaint, make it abundantly clear that Oracle is alleging that HP
installed Solaris Updates on its customers' servers and that neither HP, nor the customer had a
support contract with Oracle covering those particular servers. . . .

2. Indirect Copyright Infringement . . . a. Contributory Infringement . . . HP first argues that
Oracle has failed to sufficiently plead knowledge because "although Oracle alleges that [HP]
knew Terix was installing software, Oracle does not adequately allege that [HP] knew (or even
should have known) that such installation was infringing or otherwise unlawful." . . . This
argument strains credibility. The Complaint is replete with specific factual allegations, including
quotes from HP's internal presentations and HP's employee's emails, from which HP's actual
knowledge of Terix's infringing acts can be plausibly inferred. . . . Next, HP argues that "[e]ven
if Oracle had sufficiently alleged knowledge...Oracle must allege that [HP] took affirmative,
'purposeful, culpable' steps to 'encourage direct infringement.'" . . . However, the Complaint
alleges, among other things, that "HP facilitated Terix's provision of Solaris Updates by fielding
requests from [a particular customer] and directing [that customer] to Terix to obtain numerous
Solaris patches that were applied to some or all of [the customer's] Solaris servers." . . . While
HP is free to argue at summary judgment that Oracle has not sufficiently proven this element, at
the motion to dismiss stage, these allegations plausibly allege that HP "materially contribute[d]
to" or "induce [d]" the alleged infringement, especially when combined with Oracle's allegations
regarding HP's direct copyright infringement. . . .

b. Vicarious Infringement . . . HP argues that the Complaint fails to sufficiently allege that HP
had any ability to control Terix because its allegations merely amount to the assertion that "HP
took no steps to stop its subcontractor [Terix]." . . . Oracle's arguments to the contrary are not
persuasive. . . . According to the allegations in the Complaint, "[w]hen HP employs a
subcontractor like Terix to provide support services for a customer's Oracle servers, HP typically
remains the customer's primary contact for support needs and is involved in facilitating the
provision of support to the customer." . . . However, simply because HP may have remained a
customer's "primary contact for support needs" does not mean that HP had the "right and ability
to supervise" Terix's conduct. . . . Moreover, in the primary case cited by Oracle to support its
argument, Fonovisa, Inc. v. Cherry Auction, Inc., the court found that vicarious copyright
infringement had been sufficiently pleaded where the defendant, an owner of a swap meet, "had
the right to terminate vendors for any reason whatsoever and through that right had the ability to
control the activities of vendors on the premises." . . . Oracle alleges no such relationship
between HP and Terix. Nor does Oracle cite any authority for the proposition that allegations of
a contractor-subcontractor relationship alone are sufficient to plead a claim for vicarious
copyright infringement.
Defendants move to dismiss Petersen-Dean's Lanham Act claims, RICO claims, and all claims against Wendi Zubillaga. Petersen-Dean alleges that defendants copied, retained, and are currently using material from Petersen-Dean's corporate hard drives, and that this material is protected by copyright and trademark laws. Defendants are former employees of Petersen-Dean who have formed a competing business. The defendants' motion to dismiss is GRANTED in part and DENIED in part.

1. Willful Copyright Infringement . . . The complaint alleges that Petersen-Dean owns the copyrights in relevant material and defendants knew about the Petersen-Dean's ownership, yet copied, reproduced, and used the material order to promote Citadel's interest. . . . Petersen-Dean alleges that the copying was in conjunction defendants' resignations from April 9, 2015 to June 1, 2015. . . . However, Zubillaga was terminated for cause on April 9, 2015. . . . The complaint is unclear whether Petersen-Dean alleges that Zubillaga reproduced copyrighted work. Therefore, Petersen-Dean's willful copyright infringement allegations against Zubillaga are vague, and without more specificity, the Court cannot determine the scope of Zubillaga's liability. This claim is dismissed against Zubillaga with leave to amend.

2. Contributory Copyright Infringement . . . As to contributory liability, Petersen-Dean's theory of liability is that Citadel knew of and encouraged the copyright infringement. Petersen-Dean asserts that "All Defendants have a common financial interest in the competing business, which relies on Petersen-Dean's Copyrighted Material to succeed." . . . The complaint also alleges that Zubillaga is a partner at Citadel. . . . Drawing all inferences in favor of Petersen-Dean, the Court finds that Petersen-Dean has sufficiently alleged the contributory infringement claim against Zubillaga.

MEDIA.NET ADVERTISING FZ-LLC, PLAINTIFF, V. NETSEER, INC., DEFENDANT.

Previously, the Court denied Defendant's motion for summary judgment but granted its motion to dismiss. Docket No. 69. With respect to the motion to dismiss, the Court gave Plaintiff leave to amend its claims for copyright infringement and unfair competition (California Business & Professions Code § 17200). Id. Plaintiff subsequently filed a second amended complaint ("SAC") in which it repudied the copyright infringement and § 17200 claims. Docket No. 76. Defendant has now moved to dismiss those claims. In the alternative, Defendant has moved to strike portions of the SAC. Id. Having considered the parties' briefs, as well as the oral argument of counsel, the Court hereby GRANTS in part and DENIES in part Defendant's motion to dismiss. The Court further DENIES Defendant's motion to strike.

2. Copyright Infringement Claims . . . When the Court granted Defendant's motion to dismiss the copyright claims as pled in the FAC, it gave Plaintiff leave to amend. The Court specifically instructed Plaintiff that, to cure the deficiency in the FAC, it had "to identify each portion of the
HTML code Defendant allegedly infringed and to allege facts regarding Defendant's access to Plaintiff's HTML code." . . .

In spite of this specific directive, Plaintiff has done little to add to its FAC. For example, in its SAC, Plaintiff did not add to the table from the FAC to include all examples of copied portions of the HTML code. . . . Indeed, Plaintiff added no new examples. The only new substantive allegation in the SAC is the statement that Defendant "copied all or substantial portions of the HTML code." . . . The allegation that Defendant copied "substantial portions" of the HTML code does not contain the specificity ordered by the Court. The new allegation is not enough to comply with the Court's directive, especially in light of the Court's holding that the only portions of the HTML code that are copyrightable are "classes" and "comments." . . .

Accordingly, the Court grants in part Defendant's motion to dismiss the copyright infringement claims. The copyright infringement claims may proceed but only based on the specific copying identified in ¶ 48 of the SAC.

CISCO SYSTEMS INC V. ARISTA NETWORKS, INC.

Plaintiff Cisco Systems Inc. brings this copyright and patent infringement lawsuit against Defendant Arista Networks, Inc. The copyright portion of the lawsuit alleges that Arista infringes Cisco's copyrighted work entitled "Cisco CLI." The patent portion of the lawsuit alleges Arista infringes Cisco's U.S. Patent No. 7,047,526 (the "'526 Patent") directed at improving the control of administration and/or diagnostic software tools in processor-based systems.

Before the Court are Cisco's motion for partial summary judgment and Arista's motion for partial summary judgment. The Court, having considered the briefing submitted by the parties and the oral argument presented at the hearing on August 4, 2016, DENIES Cisco's motion and DENIES Arista's motion for the reasons stated below.

Southern District of California

AMERICAN SHOOTING CENTER, INC. V. SECFOR INTERNATIONAL
No. 13CV1847 BTM(JMA), 2016 WL 1182745 (S.D. Cal. Mar. 28, 2016)

Defendants MiraCosta College District and Linda Kurokawa, in her official capacity as Director of Community Services & Business Development for MiraCosta College (collectively the “MiraCosta Defendants”), have filed a motion for an order dismissing the First Amended Complaint ("FAC") for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted. Plaintiffs and the MiraCosta Defendants also filed a joint motion for determination of a discovery dispute, which concerns the same Eleventh Amendment issues that are raised by the MiraCosta Defendants' Motion to Dismiss. Because the discovery dispute raised dispositive issues, Magistrate Judge Adler ordered that consideration of the joint motion was
deferred until Judge Moskowitz evaluated the arguments in connection with the motion to dismiss.

Defendants Secfor International, Secfor International LLC, HTPSCOURSE.COM, Absolute Security, Inc., Absolute Protection Group Worldwide, APG, Keiko Arroyo, and Patrick Richard Sweeney aka Rick Sweeney (collectively “Secfor Defendants”) have filed a motion to dismiss the FAC for lack of subject matter jurisdiction, or, in the alternative to dismiss for failure to state a claim.

For the reasons discussed below, the MiraCosta Defendants' motion is GRANTED IN PART and DENIED IN PART. In addition, the Court denies Plaintiffs' request for jurisdictional discovery. The Secfor Defendants' motion is also GRANTED IN PART and DENIED IN PART . . .

However, Plaintiffs have not alleged facts establishing infringement of the copyrights to the bulletins. The FAC is ambiguously worded, but it appears that Plaintiffs are complaining not that the bulletins themselves were reproduced or made available to the public by Defendants, but that “course materials derived” from the bulletins were in Defendants' classrooms. (FAC ¶ 62.) Copyright protection does not extend to any idea or concept “regardless of the form in which it is described, explained, illustrated, or embodied in such work.” . . . For a derivative work to infringe a copyright, “the infringing work must incorporate in some form a portion of the copyrighted work.” . . . To the extent Defendants' courses or course materials merely covered topics or ideas mentioned in the bulletins, Plaintiffs' copyrights were not infringed.

Accordingly, the Court denies the motion to dismiss Plaintiffs' direct infringement claim to the extent it pertains to the copyrighted video, but grants the motion to the extent it pertains to the bulletins. Plaintiffs have leave to amend their direct infringement claim to provide supporting facts regarding the bulletins. . . .

The FAC does not allege any specific facts about users of Defendants' websites copying or distributing the video. The mere possibility of infringement by third parties is not sufficient to support a claim for secondary infringement. . . .

Therefore, the Court grants Defendants' motion to dismiss as to Plaintiffs' secondary infringement claim. Plaintiffs may amend this claim to provide factual allegations regarding secondary infringement.

AMERICAN SHOOTING CENTER, INC. V. INTERNATIONAL

Defendant Linda Kurokawa ("Defendant" or "Kurokawa"), in her official capacity as Director of Community Services & Business Development for MiraCosta College, has filed a motion pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6) to dismiss the Second Amended Complaint's claims against her for retroactive monetary relief for copyright infringement. For the reasons discussed below, Defendant's motion is GRANTED. . . .
B. CRCA . . . The Court agrees with the reasoning in Campinha-Bacote and the footnote in National Ass'n distinguishing Georgia. Georgia is inapplicable and does not establish that Congress validly abrogated the state's Eleventh Amendment immunity in this case.

SOPHIA & CHLOE, INC. V. BRIGHTON COLLECTIBLES, INC.

Presently before the Court is Defendant Brighton Collectibles, Inc.'s ("Defendant") motion for reconsideration, (Doc. No. 222), of the Court's remittitur, which permitted Plaintiff to elect wrongful profits1 after the Court concluded the jury's award of statutory damages was excessive . . . . For the reasons set forth below, the Court DENIES Defendant's motion.

To be clear, the Court does not hold that a plaintiff may infinitely reelect damages with impunity. Such a holding would prejudice defendants, as the court in Marano found. Rather, the Court simply holds that where, as here, a plaintiff has elected damages based upon a jury award that is later deemed legally erroneous, the plaintiff is entitled to reelect the alternate award. To hold otherwise would work an inequity against plaintiffs while permitting defendants a second opportunity to defend against the only remaining damages option. That would be an unjust result indeed. For all these reasons, the Court DENIES Defendant Brighton Collectibles, Inc.'s motion for reconsideration under Rule 59(e) of the Federal Rules of Civil Procedure.

JOHNSON V. STORIX, INC.

On August 8, 2014, Plaintiff and Counter-Defendant Anthony Johnson ("Plaintiff Johnson") filed a complaint alleging copyright infringement of a software program. . . . On December 15, 2015, the jury returned a verdict in favor of Defendant Storix. . . . On January 4, 2016, Defendant Storix filed a motion pursuant to 17 U.S.C. § 505 seeking costs not taxable under 28 U.S.C. § 1920 as well as attorneys' fees. . . . On June 16, 2016, the Supreme Court issued an opinion in Case No. 15-375, Kirtsaeng v. John Wiley & Sons, Inc. . . . For the reasons that follow, the Court grants in part and denies in part the motion for costs and fees.

District of Hawai‘i

FROST-TSUJI ARCHITECTS VS. HIGHWAY INN, INC.

Before the court are objections filed by Plaintiff Frost-Tsuji, Defendant J. Kadowaki, Inc., and Defendants Highway Inn, Inc., and Ho'ola Mau, LLC (collectively “Highway Inn”) to the Magistrate Judge's Findings & Recommendation to Grant in Part Defendants' Motions for Attorney's Fees and Costs (“F & R”).
The F & R recommends the award of $24,033.97 in attorney's fees and costs to Defendant Bargreen Ellingson of Hawaii, Inc., $139,832.00 in fees and costs to J. Kadowaki, $214,574.97 in fees and costs to Highway Inn, and $70,089.62 in fees and costs to Highway Inn on behalf of Defendants Bryce Uyehara, A.I.A., and Iwamoto and Associates, LLC. The awards are for (1) Defendants' work on Frost-Tsuji's claim for copyright infringement (Count IV) after this court granted summary judgment in Defendants' favor on Count IV on August 26, 2014, and (2) Defendants' work on Frost-Tsuji's claim that Defendants improperly removed copyright management information ("CMI").

Having reviewed the portions of the F & R objected to, the court adopts the F & R in its entirety.

District of Nevada

ORACLE USA, INC. V. RIMINI STREET, INC.

Before the court is defendants Rimini Street, Inc. ("Rimini") and Seth Ravin's ("Ravin") (collectively "defendants") renewed motion for judgment as a matter of law on plaintiffs Oracle USA, Inc.; Oracle America, Inc.; and Oracle International Corporation's (collectively "Oracle") claims brought pursuant to the Copyright Act. Doc. #915.1 Plaintiffs filed an opposition to the motion (Doc. #957) to which defendants replied (Doc. #977).

The court has reviewed defendants' motion and finds that it is without merit. Throughout the motion, defendants recognize that both at summary judgment and in connection with the jury instruction on Oracle's licenses the court rejected defendants' interpretation of the software license agreements. However, defendants now submit, in the guise of a Rule 50(b) motion, that if the licenses had been interpreted as defendants contended, then the jury's verdict of copyright infringement would not be supported by the evidence submitted at trial. Thus, the essence of defendants' argument is that if the court were to reverse its prior constructions of the relevant software license agreements, the jury could not have found any copyright infringement by defendant Rimini.

IT IS THEREFORE ORDERED that defendants' renewed motion for judgment as a matter of law on plaintiffs' copyright claims (Doc. #915) is DENIED.

Western District of Washington

LEOPONA, INC. V. CRUZ FOR PRESIDENT

This matter comes before the Court on Defendants' Motion to Dismiss under Federal Rules of Civil Procedure 12(b)(6), 12(c) and/or 12(f). Defendants argue that Plaintiffs' claims fail as a matter of law because: 1) Plaintiffs do not allege their copyrights are valid, and offer no information about their filings with the U.S. Copyright Office; 2) Plaintiffs cannot support their claim for liquidated damages; 3) Plaintiffs' contract claims are preempted by the Copyright Act; and 4) Plaintiffs' request for an injunction is moot. Id. Plaintiffs oppose the motion, arguing that
they have met the liberal pleading standards under Rule 12(b)(6) and related case law, and no alternative Rule permits dismissal of the Complaint at this stage of the proceedings. For the reasons set forth below, the Court agrees with Plaintiffs and DENIES Defendants' motion to dismiss.

Defendants argue that Plaintiffs Schachner and Couture fail to allege sufficient facts to prove ownership of a valid copyright. The Ninth Circuit Court of Appeals has expressly held that "receipt by the Copyright Office of a complete application satisfies the registration requirement of § 411(a)." Defendants have accepted for purposes of this motion that Ms. Schachner and Mr. Couture filed U.S. Copyright applications; however, they complain that Plaintiffs have failed to allege or otherwise demonstrate that the U.S. Copyright Office received those applications. The Court is not persuaded by this argument, and agrees with Plaintiffs that Defendants are attempting to improperly broaden settled pleading principles through their motion.

Ms. Schachner and Mr. Couture specifically pleaded that they are the sole owners of their respective sound recordings and copyrights, and that they have filed US copyright applications. The Court agrees that the only reasonable inference from those allegations is that the Copyright Office has received those applications. This is because, as Plaintiffs point out, a copyright application may only be filed with the Copyright Office, and filing with the Copyright Office is the only way one can complete the application process. Thus, the Court rejects Defendants argument that Plaintiffs Schachner and Couture have failed to allege facts sufficient to support their copyright claims at this stage of the proceedings.

Defendants next argue that the Copyright Act preempts Audiosocket's contract claims. This Court disagrees. This Court finds that the reasoning of Altera Corporation and MDY Industries is applicable in the instant action. In both of those cases, the Ninth Circuit found the contractual rights at issue to be qualitatively different and not the equivalent of a copyright infringement claim; thus, the Copyright Act did not preempt such state law claims. In this case, Audiosocket seeks to hold Defendants liable for alleged breaches of their Licensing Agreements, specifically the use of the musical compositions for political purposes and cable television ads, both of which were prohibited by the Agreements. For the reasons discussed above, the Court is not convinced that such claims are preempted by the Copyright Act.

Tenth Circuit

SAVANT HOMES, INC. V. COLLINS
No. 15-1115, 2016 WL 25576 (10th Cir. Jan. 4, 2016)

Plaintiff Savant Home, Inc. ("Savant") is a custom home designer and builder. It holds a registered copyright to a floor plan of a three-bedroom ranch house ("Anders Plan"). Savant built a model house embodying that plan in Windsor, Colorado ("Savant house"). In June 2009, Ron and Tammie Wagner toured the Savant house and hired builder Douglas Collins and his firm, Douglas Consulting, LLC (jointly, "Collins") to build a house. Collins, in turn, contracted with Stewart King to design the house. After Collins and Mr. King completed the Wagners' house, Ms. Wagner hired them to build a second house.
Savant sued all of the foregoing parties for copyright infringement, contributory copyright infringement, civil conspiracy, trade dress infringement, and other claims. It alleged that Defendants copied the Anders Plan by building the two houses (“accused houses”). The district court granted Defendants summary judgment, and Savant appeals. . . .

We therefore agree with the district court's conclusion that Savant failed to carry its burden on summary judgment. Savant offered no evidence indicating (1) any individual element or (2) any arrangement of elements was protectable. As to the one element Mr. Fisher identified as potentially protectable—the iron bars on the garage windows of the Anders Plan—Savant failed to dispute Defendants' evidence that the garage windows of the accused houses were entirely distinct, as they lacked any iron bars. As to the arrangement of elements, Mr. Larson's report supported rather than disputed Defendants' evidence indicating that the overall layout of the rooms was standard in Colorado. Savant therefore failed to offer any basis for a finding of substantial similarity. Because substantial similarity is an essential element of copyright infringement, Defendants were entitled to summary judgment.

BWP MEDIA USA, INC. V. CLARITY DIGITAL GROUP, LLC
No. 15-1154, 2016 WL 1622399 (10th Cir. Apr. 25, 2016)

Plaintiff-Appellant BWP Media USA, Inc. d/b/a Pacific Coast News and National Photo Group, LLC ("BWP") appeals from the district court's summary judgment in favor of Defendant-Appellee Clarity Digital Group, LLC n/k/a AXS Digital Media Group, LLC ("AXS"). . . . BWP owns the rights to photographs of various celebrities. In February 2014, BWP filed a complaint alleging that AXS infringed its copyrights by posting 75 of its photographs without permission on AXS's website, Examiner.com. AXS asserted it was protected from liability by the safe harbor provision of the Digital Millennium Copyright Act ("DMCA") and moved for summary judgment. The district court agreed. Exercising jurisdiction pursuant to 28 U.S.C. § 1291, we affirm.

CIVILITY EXPERTS WORLDWIDE V. MOLLY MANNERS, LLC

Plaintiff Civility Experts Worldwide ("Civility Experts") sues Defendant Molly Manners, LLC ("Molly Manners") for copyright infringement and related causes of action. (See ECF No. 47.) Currently before the Court is Molly Manners' Early Motion for Partial Summary Judgment ("Motion") attacking only Civility Experts' copyright infringement claim. (ECF No. 85.) For the reasons explained below, Molly Manners' Motion is granted, but, contrary to Molly Manners' view, this outcome does not automatically dispose of Civility Experts' claim for breach of the contract. . . .

Although the valid comparisons analyzed above present some striking examples of what appears to be outright copying, the Court finds that no reasonable jury could conclude that any of them, individually or collectively, relate to portions of Proud to Be Polite that are “of great qualitative
importance to the work as a whole.” . . . Thus, Molly Manners has not infringed Proud to Be Polite.

BWP MEDIA USA INC V. CLARITY DIGITAL GROUP, LLC

This matter is before the Court on defendant Clarity Digital Group's Motion for Attorneys' Fees [Docket No. 70] and plaintiffs' Motion to Stay Consideration of Defendant's Motion for Attorneys' Fees [Docket No. 81] . . .

Defendant cites no authority for its argument that sending a demand letter prior to initiating a lawsuit, refusing to consent to bifurcate discovery, or refusing to agree to factual stipulations gives rise to an inference of bad faith. The Court finds no basis on which to conclude that plaintiffs acted with improper motivation or brought their copyright claim in bad faith . . .

Defendant argues that a fee award in this case would further the purposes of the Copyright Act and “is proper here because it ‘is designed to chill’ the filing of ‘additional frivolous lawsuits' by plaintiffs and their counsel, who have made a cottage industry of bringing infringement actions against ISPs and others in the hopes of extracting quick settlements.” . . . The Court disagrees because it does not find that plaintiffs' lawsuit was frivolous.

Accordingly, in the exercise of its discretion, the Court will not award attorney fees to defendant pursuant to 17 U.S.C. § 505.

ZAHOUREK SYSTEMS, INC. V. BALANCED BODY UNIVERSITY, LLC

This matter is before the Court on Defendant/Counter-Plaintiff Balanced Body University, LLC’s (“BBU” or “Defendant”) (1) motion for partial summary judgment (“MSJ”) (ECF No. 81) and (2) motion to strike (“Motion to Strike”) (ECF No. 119) the affidavit of Frank Baca (“Baca”) (ECF No. 102). Plaintiffs/Counter-Defendants Zahourek Systems, Inc. (“ZSI”) and Jon Zahourek (“Zahourek”) (collectively, “Plaintiffs”) filed responses to the respective motions (ECF Nos. 94; 123) and Defendant filed respective replies (ECF Nos. 117; 129) . . .

Zahourek claims that Defendant has infringed his “copyrighted anatomy models and rights through the unauthorized display of such models and derivative works made therefrom on a website.” (ECF No. 49 ¶ 3.) Zahourek is referring to the Student 1 Maniken® for which he has received a copyright14 . (ECF No. 94 at 14.) To prevail on his copyright infringement claim, Zahourek must establish that he (1) possesses a valid copyright; and (2) Defendant copied protectable elements of the work. . . . Defendant argues that Zahourek cannot establish either element. (ECF No. 81 at 19.) Because the Court determines that Zahourek does not possess a valid copyright, the Court does not reach the issue as to whether Defendant copied protectable
elements of the Maniken®. The Court finds Defendant is entitled to judgment in its favor and against Zahourek on Zahourek's copyright claim (ECF No. 49 ¶¶ 53-60). . . .

In this matter, the undisputed material facts show that Zahourek created the Maniken® for its utilitarian features. Zahourek's after-the-fact attempt to recast his Maniken® as an artistic endeavor finds no support in his contemporaneous creation. The Maniken® serves utilitarian ends. The Maniken® has an intrinsic utilitarian function that is merely to portray the appearance of a life-like form. . . .

The facts of this case are more similar to the facts in Carol Barnhart than those at issue in Pivot Point Int'l. In this matter, Zahourek fails to create a dispute with respect to the material facts that the Maniken® was designed for anatomically-functional reasons not independent from his artistic judgment.

GRADY V. IACULLO

On March 8, 2013, plaintiff James Grady ("plaintiff") filed a Complaint against Samuel Iacullo ("defendant"), alleging that defendant infringed plaintiff's copyrights in numerous photographs and videos "of professional swimwear models, all of [who] are minors under the age of 18," and his trademark in "TrueTeenBabes." . . . Plaintiff sought declaratory and injunctive relief, statutory damages for defendant's alleged acts of copyright infringement, damages for defendant's alleged trademark infringement, punitive damages, and attorney's fees. (Id. at 17-18.) Defendant is proceeding pro se.

On August 5, 2015, plaintiff filed a Renewed Motion for Summary Judgment . . . Defendant did not respond to the renewed motion for summary judgment, but he did respond to plaintiff's original motion for summary judgment . . ., and plaintiff filed a reply to that response . . . After referral, on February 29, 2016, U.S. Magistrate Judge Kathleen Tafoya entered a report and recommendation ("R&R"), recommending that plaintiff's renewed motion for summary judgment be granted in part and denied in part. . . . Specifically, the Magistrate Judge recommended granting summary judgment on plaintiff's claim for direct copyright infringement, but denying it as to plaintiff's claims for contributory and vicarious copyright infringement and trademark infringement. . . . On March 22, 2016, defendant filed an objection to the R&R. . . . On April 4, 2016, plaintiff filed a response to defendant's objection. (ECF No. 56.) As a result, the renewed motion for summary judgment and the R&R with respect thereto are now before the Court. For the reasons discussed below, the Court SUSTAINS defendant's objection to the R&R, ADOPTS IN PART and REJECTS IN PART the R&R, and DENIES the renewed motion for summary judgment. . . .

Defendant's objection to the R&R is that, although he "share[d]" in some manner plaintiff's photographs and videos with other users of a third-party website, at no point did he copy or store those photographs or videos onto his computer, citing Perfect 10. . . . Defendant raised this same argument in his response to the original motion for summary judgment. . . . The Magistrate
Judge, though, failed to address it in the R&R in finding that defendant infringed plaintiff's copyrights. . . . Because the Court finds that defendant's argument has merit, the Court thus REJECTS the part of the R&R related to the second element of plaintiff's direct copyright infringement claim. As a result, the Court will conduct a de novo review of that element. . . .

Here, though, there is no explanation of whether sharing links to plaintiff's photographs and videos resulted in copies of thumbnails being automatically stored on defendant's computer. Similarly, there is no explanation in plaintiff's statement of facts as to whether defendant's act of sharing links to plaintiff's photographs and videos caused or induced another party to directly infringe plaintiff's copyrights. Given the apparent technological aspect to these questions, expert testimony, or at least testimony from a witness with personal knowledge and experience of the process of sharing hyperlinks or thumbnails and whether that sharing results in thumbnails being stored on a computer, would appear to be necessary to satisfy plaintiff's burden of proving either direct or contributory copyright infringement claims.11 This evidence may take the form of affidavit(s) or declaration(s) in compliance with Fed.R.Civ.P. 56(c)(4).

BROADCAST MUSIC, INC. VS. Z'S CLUB, LLC

The plaintiffs in this action have sued defendants for copyright infringement. Broadcast Music, Inc. ("BMI") owns the right to license the public performance rights to certain copyrighted musical compositions. The rest of the plaintiffs are the owners of the copyrighted songs, which they claim were publicly performed without authorization at Z's Club (the "Club"), an establishment owned by defendant Z's Club, LLC. In addition to Z's Club, LLC, plaintiffs have sued its present or past owners, Anthony Paul Vinson and Travis Reed. Defendant Vinson has filed a motion to dismiss pursuant to Fed.R.Civ.P. 12(b)(6).

Plaintiffs allegations, though sparse, are sufficient to state a claim against defendant Vinson for vicarious copyright infringement. They allege that copyrighted musical compositions were publicly performed at Z's Club and "pleaded specific facts to raise a plausible inference that [Vinson] exercised control over and financially benefitted from the performance venue." . . . As the court explained in Broadcast Music, Inc. v. Meadowlake, Ltd. . . ., "[i]n interpreting the Copyright Act against its common law background, ... courts have developed a handful of doctrines that make people liable for copyright infringement committed by others." . . . A defendant becomes liable under one of these doctrines "by profiting from [the] infringement while declining to exercise a right to stop or limit it." . . . The fact that Vinson owns Z's Club through a limited liability company may make a difference, as it "may affect whether [he] satisfies the test for vicarious liability in the first place." . . . However, "the classification of his business does not (at least in general) exempt him from liability." Id. "[I]t does not ... matter whether [Oklahoma's] laws on limited liability companies would make Roy personally liable for wrongs committed by or at his [club]." . . .

Whether Vinson is shielded by the business judgment rule from personal liability for copyright infringement presents a factual dispute that cannot be resolved on a motion to dismiss. Under the
facts pleaded in the complaint, he would not be entitled to claim that the infringement resulted from an honest error in judgment when BMI, since January 2012, repeatedly warned defendants about the alleged infringement.

**Eleventh Circuit**

**Court of Appeals for the Eleventh Circuit**

HOME DESIGN SERVICES, INC. V. TURNER HERITAGE HOMES INC.
No. 15-11912, 2016 WL 3361479 (11th Cir. Jun. 17, 2016)

Plaintiff Home Design Services, Inc. ("Home Design") has sued Defendants Turner Heritage Homes, Inc., et al. ("Turner") for copyright infringement on Home Design's architectural floor plan HDS-2089. According to Home Design, two of Turner's floor plans, the Laurent and the Dakota, infringe on HDS-2089. Home Design's lawsuit went to trial before the district court, and a jury returned a verdict in favor of Home Design, awarding $127,760 in damages. Turner moved for judgment notwithstanding the jury's verdict under Rule 50(b), which the district court granted. We affirm. . . .

Although HDS-2089 and the Turner plans share the same general layout, this is only because both sets of plans follow the customary four-three split style, as well as the attendant industry standards. Kevin Alter, Home Design's own expert, conceded on cross-examination that HDS-2089's split-bedroom arrangement aligns with industry standards, as does the contiguity of the dining room, breakfast nook, and kitchen. Alter further characterized HDS-2089 as neither "unusual" nor "radically different [from] the many things that are on the market." No one, including Home Design, owns a copyright to the idea of a four-three split style, nor to the industry standards that architects regularly heed to achieve such a split.

FLO & EDDIE, INC. V. SIRIUS XM RADIO, INC.
No. 15-13100, 2016 WL 3546433 (11th Cir. Jun. 29, 2016)

Flo & Eddie, Inc. ("Flo & Eddie") appeals from a final order of the district court granting summary judgment in favor of Sirius XM Radio, Inc. ("Sirius"). We have had the benefit of oral argument and have reviewed the briefs and relevant parts of the record. As the case presents issues that have not been addressed by the Supreme Court of Florida, we believe the issues are appropriate for resolution by Florida's highest court and defer our decision in this case pending the certification of questions to the Supreme Court of Florida. . . .

Accordingly, we respectfully certify the following questions of law to the Supreme Court of Florida: 1. Whether Florida recognizes common law copyright in sound recordings and, if so, whether that copyright includes the exclusive right of reproduction and/or the exclusive right of public performance? 2. To the extent that Florida recognizes common law copyright in sound recordings, whether the sale and distribution of phonorecords to the public or the public performance thereof constitutes a "publication" for the purpose of divesting the common law copyright protections in sound recordings embedded in the phonorecord and, if so whether the
divestment terminates either or both of the exclusive right of public performance and the exclusive right of reproduction? 3. To the extent that Florida recognizes a common law copyright including a right of exclusive reproduction in sound recordings, whether Sirius's back-up or buffer copies infringe Flo & Eddie's common law copyright exclusive right of reproduction? 4. To the extent that Florida does not recognize a common law copyright in sound recordings, or to the extent that such a copyright was terminated by publication, whether Flo & Eddie nevertheless has a cause of action for common law unfair competition / misappropriation, common law conversion, or statutory civil theft under FLA. STAT. § 772.11 and FLA. STAT. § 812.014?

MEDALLION HOMES GULF COAST, INC. V. TIVOLI HOMES OF SARASOTA, INC.
No. 15-15393, 2016 WL 3996671 (11th Cir. Jul. 26, 2016)

Medallion Homes Gulf Coast, Inc. ("Medallion") appeals from the district court's grant of summary judgment to Tivoli Homes of Sarasota, Inc. ("Tivoli"), Nicole Duke, Michael Duke, Jason Kubisiak, and Start to Finish Drafting, L.L.C. in their federal copyright infringement suit brought pursuant to 17 U.S.C. § 501. Medallion's complaint alleged in relevant part that Defendants-Appellees infringed Medallion's copyright in a technical drawing and architectural plan called "Santa Maria" by obtaining a copy of the Santa Maria plan and subsequently building a home that was "substantially similar" to the Santa Maria. The district court granted summary judgment in favor of Tivoli, finding that the differences between the Tivoli home and the Medallion design were sufficiently significant that no reasonable finder of fact could determine that the works were "substantially similar" so as to constitute copyright infringement. On appeal, Medallion argues that the district court erred because genuine issues of fact existed as to whether Tivoli copied protected elements of Medallion's Santa Maria design.

In the instant case, . . . the Santa Maria and the Duke floor plans are at first glance visually similar. Both plans can be described as four-three split plans, that is, four-bedroom three-bathroom plans with a master bedroom on one end and three other rooms at the other end. In the Santa Maria, the master bedroom is on the right side, and in the Duke plan, the master bedroom is on the left side. Both plans are arranged around a large center open area containing a contiguous great room, dining room, kitchen, and nook. Both plans contain a two-car garage. However, despite the fact that the plans share in common the same set of rooms, arranged in the same overall layout, these shared elements are not copyrightable elements. Indeed, the same basic split layout was present in both our Home Design Services and Intervest cases.

The district court . . . amply examined the numerous differences between the plans. Indeed, Medallion's expert identified more differences than similarities. These differences include differences in dimensions, wall placement, and the presence, arrangement, and function of particular features around the house such as doors, windows, and other fixtures. . . . We need not repeat the district court's excellent analysis. We conclude that the differences identified by the district court are significant; they are comparable to those described in Home Design Services and Intervest. For example, instead of having two separate garage spaces as in the Santa Maria, the Duke plan instead includes one two-car garage and one finished and air-conditioned hobby
room with a niche area directly outside of the entrance door. Additionally, unlike the two-car garage in the Santa Maria, the two-car garage in the Duke residence also differs with respect to dimensions, the inclusion of attic access, and the number and placement of windows and doors. The numerous and significant differences discussed by the district court indicate that these plans differ where it matters: at the level of protectable elements.

We agree with the district court. Appellant has not shown that there is a genuine question of fact as to substantial similarity. The district court's grant of summary judgment to Defendants-Appellees is affirmed.

ARTHUR RUTENBERG HOMES, INC. v. JEWEL HOMES, LLC
No. 15-14965, 2016 WL 3996670 (11th Cir. Jul. 26, 2016)

Plaintiffs-Appellants Arthur Rutenberg Homes, Inc. ("Rutenberg") and Marcus Allen Homes, Inc. ("Marcus Allen") appeal from the district court's grant of summary judgment to Defendants-Appellees Jewel Homes, LLC ("Jewel"), Julie D. Irvin ("Irvin"), Mary C. Lesher, and Michael B. Lesher, in their federal copyright infringement suit brought pursuant to 17 U.S.C. § 501. Appellants' complaint alleged in relevant part that Appellees infringed Rutenberg's federally copyrighted "Amalfi Model" architectural plan and work by preparing an architectural plan ("the Lesher Plan") to build a home that is substantially similar to the copyrighted Amalfi plan and work. The district court granted summary judgment to Appellees on the basis that the differences between the two designs are so significant that no reasonable, properly instructed jury could find the works substantially similar. On appeal, Appellants argue that the existence of genuine issues of material fact as to substantial similarity precludes summary judgment. . . .

In the instant case, . . . the district began by noting similarities between the Amalfi plan and the Lesher Plan. The court observed that "[t]he floor plan of the Amalfi and the Lesher Plan are visually similar in some respects and the general layout is the same." . . . "Both floor plans are for a four-bedroom, four-bath, single-story split-plan home. . . . In both floor plans, the garage, utility room, three bed rooms and the bonus room are lined up on the right side, the master bathroom and bedroom are on the left side, with the kitchen, dining room, den and great room separating the bedroom areas situated on opposite sides of the floor plans." . . . In other words, as in Home Design Services and Intervest, the shared or similar elements between the two plans are non-protectable elements. The district court then examined the numerous differences between the two plans. . . . As in Home Design Services and Intervest, these differences are differences in dimensions, wall placement, and the presence, arrangement, and function of particular features around the house. The differences described by the district court in the instant case are comparable to those described in Home Design Services and Intervest. In other words, the potentially protectable elements of the two designs are different, not similar. Accordingly, at the level of protectable elements, there is no genuine question of material fact that an average lay observer would recognize the Lesher Plan as having been appropriated from the Amalfi.
We agree with the district court. Appellants have not shown that there is a genuine question of fact as to substantial similarity. The district court's grant of summary judgment to Defendants-Appellees is affirmed.

Northern District of Alabama

MOHR V. SCIENCE AND ENGINEERING SERVICES, INC.

In this lawsuit, Mr. Mohr asserts claims against Science and Engineering Services, Inc., Science and Engineering Services, LLC, SES Holding Co., Inc., and Harold G. "Bud" Sowers. . . . Mr. Mohr asserts against SES a federal cause of action for copyright infringement under 17 U.S.C. § 501 and state law claims for breach of contract, unjust enrichment, conversion, accounting, defamation, intentional interference with business relations, conspiracy, and fraud. . . . The defendants have filed a counterclaim, in which they ask the court to declare that Mr. Mohr's copyright is invalid. . . . This matter is before the Court on Mr. Mohr's motion for partial summary judgment on his copyright infringement claim and the defendants' motion for summary judgment on Mr. Mohr's claims. . . .

1. Subject Matter Jurisdiction . . . [T]he Court may exercise jurisdiction over Mr. Mohr's copyright infringement claim as it pertains to the fully-automated AMIP web-based computer program that Mr. Mohr registered in February 2010. . . .

2. Copyright Ownership . . . Given the state of the facts and law as described above, only a written agreement that expressly assigned all copyright interests in AMIP to Mr. Mohr could prevent DynCorp from being considered the author of AMIP under the Copyright Act. . . . The record discloses exactly the opposite. Mr. Mohr executed an employee agreement with DynCorp in which he agreed to "promptly make full disclosure and assign to the Company any ideas, discoveries, inventions, developments or improvements conceived or made by me, either solely or jointly with others, during the period of my employment with the Company relating to Company business, development programs or contemplated interests." . . . The undisputed facts in the record compel the conclusion that the requirements of the work-for-hire doctrine are satisfied, and Mr. Mohr is not the author of AMIP for purposes of a copyright action. . . .

Absent evidence of some form of conduct that has unfairly tipped the scales of justice, the Court cannot use equitable estoppel to prevent the dismissal of a claim that is legally insufficient. Therefore, SES is not estopped from asserting the work-for-hire defense to Mr. Mohr's copyright infringement claim. . . .

3. Copying of Protected Elements . . . Sixteen files, at least, were present in the registered version of AMIP but not in AMIP_ONE or SES AMIP. Mr. Mohr has offered no means of gauging how many more files appeared only in the registered version of AMIP. In addition, attempting to reconstruct the registered version of AMIP by comparing AMIP.ONE with SES AMIP leaves open the question of what to do when AMIP.ONE and SES AMIP do not match. On the evidence presented to the Court, filling these gaps to re-create the registered version of AMIP with source code from either AMIP.ONE or SES AMIP would entail pure speculation.
Therefore, the Court must conclude that Mr. Mohr is unable to produce the copyrighted work, and the Court cannot conduct an infringement analysis.

Middle District of Florida

PK STUDIOS, INC. V. R.L.R. INVESTMENTS, LLC

This matter comes before the Court on review of Defendants' Motion to Dismiss or, Alternatively, for a More Definite Statement (Doc. #30) filed on September 30, 2015. Plaintiff filed a Response (Doc. #35) on November 10, 2015 to which Defendants filed a Reply (Doc. #47) on December 22, 2015. For the reasons set forth below, the motion is denied. . . .

While the Court agrees with Defendants that PK Studios cannot ultimately prevail on this count without providing the specific materials alleged to have been copied so that they can be compared to the Eagles Landing designs, PK Studios was under no obligation to do so at the pleading stage, . . . , and Defendants will be able to obtain this information during discovery. Accordingly, the Court concludes that PK Studios has adequately alleged its cause of action for copyright infringement and Defendants' motion to dismiss will be denied. Likewise, the Court concludes that the Complaint is not “so vague or ambiguous that [Defendants] cannot reasonably prepare a response.” Fed. R. Civ. P. 12(e). Therefore, Defendants' motion for a more definite statement also will be denied.

FINE V. BAER

John Christopher Fine filed the instant lawsuit against Defendants Robert H. Baer and Tyrrell L. Armstrong for violating Fine's copyright in a photograph that Defendants reproduced in a book about a shipwreck. Fine now files a Motion for Partial Summary Judgment on the issue of Defendants' joint and several liability for copyright infringement under 17 U.S.C. § 501 and his entitlement to damages, attorneys' fees, and costs. . . . Fine's motion is due to be granted in part and denied in part. . . .

If I take Fine's proffered date of discovery as true, the instant action was filed well within the statute of limitations on January 13, 2015-nearly a full year before the limitations period expired. If, on the other hand, I take Defendants' proffered dates as true, Fine's filing would be short of the 2014 cutoff. This is a genuine issue of material fact that cannot be resolved at this stage. . . .

Here, Defendants fail to meet their burden. The only facts upon which Defendants rely are that "Leo used the Copper Bucket photograph at his presentations" and that Fine saw Leo using the photograph at those presentations. . . . Fine contends correctly that Leo's use of the photograph was for educational purposes and therefore falls under the "fair use" exception to copyright protection. . . . "Section 107 of the Copyright Act specifically permits the unauthorized use of copyrighted work 'for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research.' " . . . Because Defendants’ sole
Evidence that Fine waived his copyright relies on Leo's "fair use" of the photograph, Defendants fail to establish a waiver of Fine's right to enforce his copyright. Summary judgment will be entered in favor of Fine on the affirmative defense of waiver.

PK STUDIOS, INC. V. R.L.R. INVESTMENTS, LLC

This matter comes before the Court on Plaintiff's Motion to Strike Defendants' Affirmative Defenses . . . . Also before the Court is Plaintiff's Motion to Dismiss Defendants' Counterclaims . . . For the reasons stated and as set forth below, Plaintiff's Motion to Strike is granted in part and denied in part, and Plaintiff's Motion to Dismiss is granted.

Southern District of Florida

ADIDAS AG V. FOOTBALLBANGKOK.COM

This cause is before the Court on Plaintiffs' Motion for Preliminary Injunction [DE 8] ("Motion"). The Court has carefully reviewed the Motion, the supporting declarations and exhibits, and the record in this case. The Court also heard oral arguments from Plaintiffs' counsel at a motion hearing held earlier today. Although Defendants received sufficient notice of these proceedings, no Defendant responded to the Motion or appeared at the preliminary-injunction hearing. . . .

Here, Plaintiffs are substantially likely to succeed on the merits of their claims. Plaintiffs have offered clear evidence that Defendants are selling goods bearing unauthorized, infringing copies of Plaintiffs' Marks and/or unauthorized copies of the adidas Copyrighted Work, thereby confusing the public about the origin of those goods. . . . Further, allowing Defendants to continue this illegal conduct would cause irreparable harm to Plaintiffs by damaging the reputation and goodwill associated with their genuine trademarked and copyrighted goods, and by allowing Defendants to profit from their sale of counterfeit products. And because Defendants have no right to sell these illicit goods, the balance of harms strongly favors Plaintiffs. Last, enjoining Defendants' conduct—the unlawful sale of fraudulent goods to consumers—serves the public interest. Plaintiffs have therefore clearly proven all four requirements for a preliminary injunction.

OPTIMA TOBACCO CORP. V. US FLUE-CURED TOBACCO GROWERS, INC.

This cause is before the Court on Defendants UETA, Inc. and Duty Free Americas, Inc.'s Motion to (1) Dismiss for Lack of Subject Matter Jurisdiction; (2) Dismiss for Lack of Personal Jurisdiction; (3) Dismiss for Forum Non Conveniens or, in the Alternative, Transfer for Improper Venue; and/or (4) Dismiss for Failure to State a Claim [D.E. 45]. For the reasons explained below, the motion is granted . . .
Because the Manufacturing Agreement establishes that UETA (not Optima) owns the copyrights, Optima lacks standing to bring an action for infringement of those copyrights. Under the Copyright Act, only the “legal or beneficial owner of an exclusive right under a copyright” may “institute an action for any infringement of that particular right while he or she is the owner of it.” . . . The copyright owner must have such status at the time of the alleged infringement to have standing to sue. . . . As explained in detail above, at the time Optima instituted this action, it did not own the copyrights at issue. Optima expressly and unambiguously transferred any and all ownership rights to the copyrights to UETA under the Manufacturing Agreement. Thus, Optima lacks standing to bring this copyright infringement action.

Optima's lack of standing requires the Court to dismiss this action under Rule 12(b)(1) for lack of subject matter jurisdiction.

ROBERTS V. GORDY

THIS MATTER is before the Court on the Parties' competing motions for summary judgment (DE 228, DE 230), which are fully briefed. This case, which has been pending for more than two years, has taken a circuitous route only to arrive at where it should have begun: Was the musical composition Hustlin' validly registered with the Copyright Office, and, if so, do Plaintiffs have an ownership interest in the exclusive right to prepare derivative works for the musical composition Hustlin'? . . .

For the foregoing reasons, the Court cannot find that any of the Plaintiffs, either legally or beneficially, hold “the kind of clearly delineated exclusivity over at least one strand of the bundle of rights that would permit [Plaintiffs'] to sue for infringement.” . . . The undisputed evidence shows that Plaintiffs were aware of the competing registrations, knew of the inaccuracies in the registrations, and took no steps to correct, amend, or address the registrations during two years of litigation until after discovery was closed and the Parties had moved for summary judgment on the issues of registration and ownership. Plaintiffs have asked this Court to grant summary judgment in their favor and bear the burden of establishing both compliance with statutory formalities and ownership. Because Plaintiffs do not hold a valid copyright registration and because Plaintiffs have not established either legal or beneficial ownership of the exclusive right to prepare derivative works for Hustlin', Plaintiffs' motion for summary judgment (DE 228) is DENIED and this case is DISMISSED. All pending motions are DENIED AS MOOT.

Federal Circuit

LEXMARK INTERN., INC. V. IMPRESSION PRODUCTS, INC.

[Ed. Note: This is a patent case, but it includes an extensive discussion of the first sale doctrine under the Copyright Act.]
HALO CREATIVE & DESIGN LTD. V. COMPTOIR DES INDES INC.


II. COPYRIGHT-RELATED LEGISLATION

House

H.R. 644: Trade Facilitation and Trade Enforcement Act of 2015

The Senate agreed to the conference report of the Trade Facilitation and Trade Enforcement Act of 2015 on February 11, 2016 by a vote of 75 to 20. As the bill has passed the House and senate, it will be presented to the President for his signature or veto.

The Trade Facilitation and Trade Enforcement Act of 2015 was enacted after being signed by the President on February 24, 2016.


H.R. 1644: Supporting Transparent Regulatory and Environmental Actions in Mining Act

The STREAM Act passed the House of Representatives on January 12, 2016 by a vote of 235 to 188.

For more information, please visit https://www.congress.gov/bill/114th-congress/house-bill/1644/.

H.R. 4829: Trade Protection Not Troll Protection Act

H.R. 4829 was introduced in the House of Representatives on March 22, 2016 by Representative Cardenas. The bill was referred to the House Committee on Ways and Means for consideration.

For more information, please visit https://www.congress.gov/bill/114th-congress/house-bill/4829/.

H.R. 4865: Nanotechnology Advancement and New Opportunities Act

H.R. 4865 was introduced in the House of Representatives on March 23, 2016 by Representative Honda. The bill was referred to various committees for consideration.

For more information, please visit https://www.congress.gov/bill/114th-congress/house-bill/4865/.


H.R. 4948 was introduced in the House of Representatives on April 14, 2016 by Rep. John Lewis, and referred to the House Committee on Ways and Means. It is cosponsored by Rep. Vern Buchanan.

H.R. 4909 was introduced in the House on April 12, 2016 by Rep. Mac Thornberry, and referred to the Committee on Armed Services. It was considered by various subcommittees and forwarded to the full committee, which considered the bill and held a mark-up session. It was reported by the committee on May 4, 2016 and placed on the Union Calendar, Calendar No. 413.

For more information, please visit https://www.congress.gov/bill/114th-congress/house-bill/4909/.

H.R. 5051: Open Government Data Act

H.R. 5051 was introduced in the House on April 26, 2016 by Rep. Derek Kilmer, and referred to the Committee on Oversight and Government Reform. It is co-sponsored by Rep. Blake Farenthold. It is identical to S. 2852.

For more information, please visit https://www.congress.gov/bill/114th-congress/house-bill/5051/.

H.R. 5325: Legislative Branch Appropriations Act, 2017

H.R. 5325 was introduced on May 25, 2016 by Rep. Tom Graves as an original measure of the House Committee on Appropriations, and placed on the Union Calendar (Calendar No. 461). House Report 114-594, which accompanies the bill, is attached. With regard to the Copyright Office, the bill provides:

For all necessary expenses of the Copyright Office, $68,827,000, of which not more than $31,269,000, to remain available until expended, shall be derived from collections credited to this appropriation during fiscal year 2017 under section 708(d) of title 17, United States Code: Provided, That the Copyright Office may not obligate or expend any funds derived from collections under such section, in excess of the amount authorized for obligation or expenditure in appropriations Acts: Provided further, That not more than $5,929,000 shall be derived from collections during fiscal year 2017 under sections 111(d)(2), 119(b)(3), 803(e), 1005, and 1316 of such title: Provided further, That the total amount available for obligation shall be reduced by the amount by which collections are less than $37,198,000: Provided further, That $4,531,000 shall be derived from prior year unobligated balances: Provided further, That not more than $100,000 of the amount appropriated is available for the maintenance of an "International Copyright Institute" in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies: Provided further, That not more than $6,500 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for activities of the
On June 9, 2016, H.R. 5325 was considered by the Committee of the Whole House pursuant to H. Res. 771. Various amendments were offered. Relevant to copyright, H.Amdt. 1167 (to reduce the amount made available by the Bill by one percent) was offered by Rep. Blackburn. At the conclusion of debate, the Chair put the question on adoption of the amendment and by voice vote, announced that the ayes had prevailed. Rep. Wasserman Schultz demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until a time to be announced. Rep. Graves moved that the committee rise, and the motion was agreed to by voice vote, leaving H.R. 5325 as unfinished business.

On June 10, 2016, H.R. 5325 was considered by the Committee of the Whole House. H.Amdt. 1167 failed by a recorded vote of 165 to 237 (Roll No. 290). H.R. 5325 was passed by 233 to 175 (Roll No. 294, which is available at http://clerk.house.gov/evs/2016/roll294.xml).

For more information, please visit https://www.congress.gov/bill/114th-congress/house-bill/5325/.

H.R. 5657: H-1B and L-1 Visa Reform Act of 2016
On July 7, 2016, H.R. 5657 was introduced in the House by Rep. Bill Pascrell Jr. [D-NJ-9], and referred to the House Committee on the Judiciary and the Committee on Education and the Workforce. Rep. Dana Rohrabacher [R-CA-48] is a co-sponsor of the bill. Among other things, the bill would amend Section 214(c)(2)(B) of the Immigration and Nationality Act to state that "The ownership of patented products or copyrighted works by a petitioner under section 101(a)(15)(L) does not establish that a particular employee has specialized knowledge. In order to meet the definition under clause (i), the beneficiary shall be a key person with knowledge that is critical for performance of the job duties and is protected from disclosure through patent, copyright, or company policy."

For more information, please visit https://www.congress.gov/bill/114th-congress/house-bill/5657/.

H.R. 5757: Copyright Alternative in Small-Claims Enforcement Act of 2016

The text of H.R. 5757 was then made available.
On July 27, 2016, H.R. 5757 was referred to the Subcommittee on Courts, Intellectual Property, and the Internet of the House Committee on the Judiciary.

On August 29, 2016, CRS provided the following summary of H.R. 5757:

This bill establishes in the U.S. Copyright Office a small claims board to serve as an alternative forum for parties to voluntarily seek to resolve certain copyright claims if the total monetary recovery sought by a party does not exceed $30,000.

The board is authorized to: (1) conduct hearings and conferences to facilitate parties' settlement of claims and counterclaims; (2) render independent determinations based on copyright laws and regulations; (3) award monetary relief; and (4) require cessation or mitigation of infringing activity, including the takedown or destruction of infringing materials, where the parties agree.

The bill preserves the right of parties to instead pursue a claim or defense in court.

Board proceedings shall not require in-person appearances by parties. Proceedings may take place through Internet-based teleconference applications.

Discovery shall be limited to the production of relevant information and documents, written interrogatories, and written requests for admission. But the board may consider a party's request for additional limited discovery.

A party may request: (1) the claims board to reconsider its determinations, and (2) the Register of Copyrights to review a claims board determination if the board denies reconsideration.

A final determination precludes relitigation of the claims before a court or the board, but parties may apply for the U.S. District Court for the District of Columbia to vacate, modify, or correct a determination that: (1) was issued as a result of fraud, corruption, misrepresentation, or misconduct; (2) exceeds the board's authority or fails to render a definite determination; or (3) was based on a default determination or failure to prosecute that was due to excusable neglect.

If a party fails to pay or comply with relief awarded in a final board determination, the aggrieved party may apply for a court order confirming the final award.

For more information, please visit https://www.congress.gov/bill/114th-congress/house-bill/5757/.

H.Res. 722: Expressing the Sense of the House of Representatives Supporting the Federal Workforce

H. Res. 722 was introduced in the House on May 10, 2016 by Rep. Eleanor Holmes Norton, and referred to the Committee on Oversight and Government Reform. It is co-sponsored by Rep.

For more information, please visit https://www.congress.gov/bill/114th-congress/house-resolution/722/.

**Senate**

**S. 779: Fair Access to Science and Technology Research Act of 2015**

On March 8, 2016, the bill was reported by Senator Johnson with an amendment in the nature of a substitute.

For more information, please visit https://www.congress.gov/bill/114th-congress/senate-bill/779/.

**S. 2648: CREATE Act of 2016**

On March 8, 2016, the bill was introduced in the Senate and referred to the Committee on Finance.

For more information, please visit https://www.congress.gov/bill/114th-congress/senate-bill/2648/.

**S. 2793: A bill to amend the small business act to reauthorize and improve the small business innovation research program and the small business technology transfer program, and for other purposes.**

S. 2793 was introduced in the Senate on April 13, 2016 by Senator Jeanne Shaheen, and referred to the Senate Committee on Small Business and Entrepreneurship. It is cosponsored by Sen. Kelly Ayotte and Sen. David Vitter.

For more information, please visit https://www.congress.gov/bill/114th-congress/senate-bill/2793/.

**S. 2837: Commerce, Justice, Science, And Related Agencies Appropriations Act of 2017**

S. 2837 was introduced in the Senate on April 21, 2016 by Senator Richard Shelby. A written report from the Committee on Appropriations was submitted, and the bill was placed on the Senate Legislative Calendar under General Orders.

For more information, please visit https://www.congress.gov/bill/114th-congress/senate-bill/2837/.
S. 2812: SBIR and STTR Reauthorization and Improvement Act of 2016

S. 2812 was introduced in the Senate on April 18, 2016 by Senator Jeanne Shaheen, and referred to the Committee on Small Business and Entrepreneurship. It is identical to S. 2793 (SBIR and STTR Reauthorization and Improvement Act of 2016) and related to S. 2136 (Improving Small Business Innovative Research and Technologies Act of 2015). It is co-sponsored by Senators Vitter, Markey, and Ayotte.

On May 11, 2016, the Committee on Small Business and Entrepreneurship ordered the bill to be reported with an amendment in the nature of a substitute favorably. Among other things, the bill provides that "Subject to paragraph (2)(B), the cost of seeking protection for intellectual property, including a trademark, copyright, or patent, that was created through work performed under an SBIR or STTR award is allowable as an indirect cost under that award." Sec. 304.

On May 24, 2016, S. 2812 was reported by Sen. Vitter of the Committee on Small Business and Entrepreneurship with an amendment in the nature of a substitute, and placed on the Senate Legislative Calendar Under General Orders (Calendar No. 480).

For more information, please visit https://www.congress.gov/bill/114th-congress/senate-bill/2812/.

S. 2852: Open Government Data Act

S. 2852 was introduced in the Senate on April 26, 2016 by Sen. Brian Schatz, and referred to the Committee on Homeland Security and Governmental Affairs. It is co-sponsored by Sen. Ben Sasse. It is identical to H.R. 5051.

On May 25, 2016, S. 2852 was ordered to be reported by the Committee on Homeland Security and Government Affairs with an amended in the nature of a substitute favorably. For more information, please visit https://www.congress.gov/bill/114th-congress/senate-bill/2852/.

For more information, please visit https://www.congress.gov/bill/114th-congress/senate-bill/2852/.

S. 2859: A bill to establish a competitive grant program to incentivize states to implement comprehensive reforms and innovative strategies to significantly improve postsecondary outcomes for low-income and first generation college students, including increasing postsecondary enrollment and graduation rates, to reduce the need of postsecondary students for remedial education, to increase alignment of high school and postsecondary education, and to promote innovation in postsecondary education, and for other purposes.

S. 2859 was introduced in the Senate on April 27, 2016 by Sen. Al Franken, and referred to the Committee on Health, Education, Labor, and Pensions. For more information, please visit https://www.congress.gov/bill/114th-congress/senate-bill/2859/.
S.2955: Legislative Branch Appropriations Act, 2017

S.2955 was introduced on May 19, 2016 by Sen. Shelley Moore Capito and placed on the Senate Legislative Calendar under General Orders (Calendar No. 473). Senate Report 114-258, which accompanies the bill, is attached. With regard to the Copyright Office, the bill provides:

For all necessary expenses of the Copyright Office, $68,825,000, of which not more than $33,619,000, to remain available until expended, shall be derived from collections credited to this appropriation during fiscal year 2017 under section 708(d) of title 17, United States Code: Provided, That the Copyright Office may not obligate or expend any funds derived from collections under such section, in excess of the amount authorized for obligation or expenditure in appropriations Acts: Provided further, That not more than $5,929,000 shall be derived from collections during fiscal year 2017 under sections 111(d)(2), 119(b)(3), 803(e), 1005, and 1316 of such title: Provided further, That the total amount available for obligation shall be reduced by the amount by which collections are less than $39,548,000: Provided further, That $6,147,000 shall be derived from prior year unobligated balances: Provided further, That not more than $100,000 of the amount appropriated is available for the maintenance of an "International Copyright Institute" in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies: Provided further, That not more than $6,500 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for activities of the International Copyright Institute and for copyright delegations, visitors, and seminars: Provided further, That, notwithstanding any provision of chapter 8 of title 17, United States Code, any amounts made available under this heading which are attributable to royalty fees and payments received by the Copyright Office pursuant to sections 111, 119, and chapter 10 of such title may be used for the costs incurred in the administration of the Copyright Royalty Judges program, with the exception of the costs of salaries and benefits for the Copyright Royalty Judges and staff under section 802(e).

For more information, please visit https://www.congress.gov/bill/114th-congress/senate-bill/2955.
III. COPYRIGHT OFFICE

The Making Available Right in the United States Report

COPYRIGHT OFFICE RELEASES REPORT ON THE RIGHT OF MAKING AVAILABLE

The U.S. Copyright Office released The Making Available Right in the United States: A Report of the Register of Copyrights. The report follows a multi-year study to review and assess the application of the “making available” right under U.S. copyright law. Two international treaties—collectively known as the WIPO Internet Treaties—require the United States to provide such a right, which gives copyright owners the exclusive right to authorize the on-demand transmission of their works to the public. Although the United States did not adopt express “making available” language when it implemented the WIPO Internet Treaties in 1998, the longstanding consensus across the U.S. government has been that the exclusive rights under the Copyright Act collectively provide the substance of the making available right.

Concurring with that view, the report concludes that U.S. law provides the full scope of protection required by the treaties, and that therefore no statutory change is currently necessary. The report provides historical context and legal background to assist in understanding how U.S. law implements the making available right. It recommends that Congress continue to monitor case law developments in this area and briefly outlines potential legislative options that could be explored, should they be necessary, to clarify the law’s intended scope.

Informational Technology Modernization Plan

COPYRIGHT OFFICE REQUESTS PUBLIC COMMENT ON FUNDING AND IMPLEMENTATION OF IT MODERNIZATION PLAN

The U.S. Copyright Office is seeking public input to inform the funding strategy and implementation timeline for the Office’s Provisional Informational Technology Modernization Plan (attached).

The IT Plan provides for an IT system that can meet the current and future needs of a modern copyright agency by minimizing costly infrastructure requirements, embracing cloud services, and utilizing mobile technologies. When that plan is implemented, the Office will, among other things, be able to accept copyright registrations through third-party apps on mobile devices and offer direct, real-time access to the Office’s database of information about copyrighted works through an API. IT modernization is a central component of the Office’s Strategic Plan for 2016-2020, published December 1, 2015, and the plan will be further refined in the coming months working with Congress, the Library and Copyright Office customers.

The Notice of Inquiry is attached. Written comments must be received no later than March 31, 2016, at 11:59 p.m. eastern time.
INFORMATION TECHNOLOGY UPGRADES FOR A TWENTY-FIRST CENTURY COPYRIGHT OFFICE WRITTEN COMMENTS

The Copyright Office received 63 written comment submissions in response to its Information Technology Upgrades for a Twenty-First Century Copyright Office NOI. They are available by clicking on the links below:

- A2IM, ASCAP, BMI, NMPA, RIAA, SESAC (https://www.regulations.gov/#/documentDetail;D=COLC-2016-0002-0052)
- AIPLA (https://www.regulations.gov/#/documentDetail;D=COLC-2016-0002-0044)
- American Association of Law Libraries (https://www.regulations.gov/#/documentDetail;D=COLC-2016-0002-0039)
- American Bar Association, Section of Intellectual Property Law (https://www.regulations.gov/#/documentDetail;D=COLC-2016-0002-0004)
- American Society of Media Photographers (https://www.regulations.gov/#/documentDetail;D=COLC-2016-0002-0005)
- Anonymous Anonymous (https://www.regulations.gov/#/documentDetail;D=COLC-2016-0002-0002)
- Anonymous Anonymous (https://www.regulations.gov/#/documentDetail;D=COLC-2016-0002-0003)
- Anonymous Anonymous (https://www.regulations.gov/#/documentDetail;D=COLC-2016-0002-0037)
- Arnold Drapkin (https://www.regulations.gov/#/documentDetail;D=COLC-2016-0002-0024)
- Association of American Publishers (https://www.regulations.gov/#/documentDetail;D=COLC-2016-0002-0051)
- Diane Barton (https://www.regulations.gov/#/documentDetail;D=COLC-2016-0002-0049)
- Ben Perini (https://www.regulations.gov/#/documentDetail;D=COLC-2016-0002-0054)
- Cindi Christie (https://www.regulations.gov/#/documentDetail;D=COLC-2016-0002-0031)
ABA Copyright Division
http://apps.americanbar.org/dch/committee.cfm?com=PT030000

- Copyright Alliance (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0012)
- Craig Martin (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0017)
- Daniel Acker (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0060)
- David Calvert (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0027)
- David Scott Smith (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0040)
- David Trotman-Wilkins (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0038)
- David Wells (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0032)
- Dawn Mitchell (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0035)
- Derrick Harmon (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0030)
- Digital Media Licensing Association (DMLA) (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0007)
- Doug Davis (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0010)
- Doug Pizac (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0029)
- Ed Shems (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0036)
- Edward Kelly (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0026)
- Graphic Artists Guild (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0048)
Joshua L. Simmons
joshua.simmons@kirkland.com

- Intellectual Property Owners Association
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0058)
- Internet Association
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0045)
- John (Jack) Hess
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0020)
- John Higbee
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0062)
- John Schmelzer
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0053)
- Jonni Bailey
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0055)
- Joseph Caserto
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0041)
- Julie Wendt Brundage
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0059)
- Karen Focht
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0043)
- Kenneth Hackman
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0025)
- Kevin Warn
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0033)
- Kristen Watson
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0022)
- Lara Kisielewska
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0063)
- Lawrence Levine
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0018)
- Lois Neustadt
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0016)
• Mary Rasenberger
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0064)
• Matthew Byrd
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0057)
• Michael Glenn
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0046)
• Michael Williams
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0023)
• Mickey Osterreicher
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0006)
• Miguel Vasconcellos
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0028)
• Motion Picture Association of America, Inc.
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0047)
• Nancy Fong
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0056)
• Professional Photographers of America
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0050)
• Rebecca Blake
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0042)
• Richard Kennedy
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0013)
• Ron Scribner
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0015)
• Ross Taylor
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0009)
• Ryland Hawkins
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0061)
• Sara Chapman
  (https://www.regulations.gov/#!documentDetail;D=COLC-2016-0002-0034)
Joshua L. Simmons
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Section 1201 Study

SECTION 1201 STUDY: NOTICE AND REQUEST FOR PUBLIC COMMENT

The United States Copyright Office is undertaking a public study to assess the operation of section 1201 of Title 17, including the triennial rulemaking process established under the DMCA to adopt exemptions to the prohibition against circumvention of technological measures that control access to copyrighted works. To aid this effort, and to ensure thorough assistance to Congress, the Office is seeking public input on a number of key questions.

SECTION 1201 STUDY: EXTENSION OF COMMENT PERIOD

The United States Copyright Office is extending the deadlines for the submission of written comments in response to its December 29, 2015 Notice of Inquiry regarding the operation of section 1201 of Title 17.

SECTION 1201 INITIAL WRITTEN COMMENTS

The Copyright Office received 68 initial written comment submissions in response to its Section 1201 study. They are available by clicking on the links below:

- AAP, MPAA and RIAA
  (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0045)

- AAU, ACE, APLU, EDUCAUSE
  (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0033)

- ACM U.S. Public Policy Council
  (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0046)
ABA Copyright Division
http://apps.americanbar.org/dch/committee.cfm?com=PT030000

- ACT | The App Association (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0057)
- AIPLA (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0041)
- Alliance of Automobile Manufacturers (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0031)
- American Foundation for the Blind (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0066)
- Marjorie Anderson (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0018)
- Brandon Anonymous (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0039)
- Authors Alliance (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0032)
- Joshua Brickel (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0017)
- BSA | The Software Alliance (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0030)
- Center for Democracy & Technology (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0061)
- Competitive Carriers Association (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0040)
- Consumer Technology Association (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0044)
- Consumers Union (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0042)
- Copyright Alliance (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0034)
Joshua L. Simmons
joshua.simmons@kirkland.com

• Cyberlaw Clinic at Harvard Law School
  (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0052)

• Peter Decherney
  (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0067)

• DIYAbility
  (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0060)

• John Dulaney
  (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0023)

• DVD Copy Control Association and Advanced Access Content System Licensing Administrator, LLC
  (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0051)

• Electronic Frontier Foundation
  (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0058)

• Entertainment Software Association
  (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0038)

• Emily Feltren
  (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0027)

• Jay Freeman
  (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0064)

• Nicolas Ganivet
  (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0011)

• Mike Godwin
  (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0028)

• Timothy Howes
  (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0015)

• Otto Hunt
  (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0006)

• Peter Hunt
  (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0019)

• iFixit
  (http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0053)
Institute of Scrap Recycling Industries, Inc.
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0065)

International Documentary Association, Film Independent, Kartemquin Educational Films
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0063)

Kernochan Center for Law, Media and the Arts, Columbia Law School
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0049)

Knowledge Ecology International
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0062)

Maryna Koberidze
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0004)

Learning Disabilities Association of America
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0022)

Library Copyright Alliance
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0035)

Aaron Lowe
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0036)

Microsoft Corporation
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0054)

MIT Libraries, MIT Press, and MIT Office of Digital Learning
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0024)

Mozilla
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0055)

New America's Open Technology Institute
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0043)

New Media Rights
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0029)

Peter Olivo
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0008)

Organization for Transformative Works
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0021)
• David Oster
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0014)

• Owners' Rights Initiative
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0037)

• Timothy Pearson
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0025)

• Public Knowledge
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0068)

• R Street Institute
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0005)

• Rapid7
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0047)

• Rico Robbins
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0069)

• Matias Rocha
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0013)

• Dominic Romeo
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0007)

• Shelia Silas
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0026)

• Society of American Archivists
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0016)

• Software and Information Industry Association
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0050)

• starelikemckeehen poker club
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0020)

• Static Control Components, Inc.
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0048)

• The Center for Copyright Integrity
(http://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0003)
SECTION 1201 STUDY: ANNOUNCEMENT OF PUBLIC ROUNDTABLES

The United States Copyright Office has issued Notices of Inquiry ("NOIs") announcing separate public studies on software-enabled consumer products and section 1201 of title 17. In addition to soliciting written comments on these issues, the Office is now announcing public roundtables for these studies to provide forums for interested members of the public to address the issues set forth in the NOIs.

DATES AND ADDRESSES: Public roundtables for the above-referenced Copyright Office studies will be held on the dates and at the locations provided below. The roundtables for the two studies are being held on consecutive dates in each location to accommodate parties who may have an interest in attending both.

Section 1201 Study: Likewise, for its study on section 1201, the Office will hold public roundtables in Washington, DC and San Francisco, CA. The roundtable in Washington will take place on May 19 and May 20, 2016, at the Library of Congress's Madison Building, 101 Independence Avenue SE., Washington, DC 20540, from 9:00 a.m. to approximately 5:00 p.m. on the first day, and from 9:00 a.m. to approximately 1:00 p.m. on the second day. The roundtable in San Francisco will take place on May 25 and May 26, 2016, at Hastings School of Law, 200 McAllister Street, San Francisco, CA 94102, from 9:00 a.m. to approximately 5:00 p.m. on the first day, and from 9:00 a.m. to approximately 1:00 p.m. on the second day.

Additional information, including instructions for submitting requests to participate in the roundtables, is available on the Copyright Office Web site at http://copyright.gov/policy/software/ (software-enabled consumer products) and http://copyright.gov/policy/1201/ (section 1201). Requests to participate in the roundtables must be received by the Copyright Office by April 18, 2016. If you are unable to access a computer or the internet, please contact the Office using the contact information below for special instructions.
SECTION 1201 REPLY WRITTEN COMMENTS

The Copyright Office received 16 written reply comment submissions in response to its Section 1201 study. They are available by clicking on the links below:

- AAP, MPAA and RIAA (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0077)
- Alliance of Automobile Manufacturers (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0072)
- Ethan Blocher-Smith (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0074)
- Copyright Alliance (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0076)
- Peter Decherney (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0086)
- Charles Duan (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0079)
- DVD Copy Control Association and Access Content System Licensing Administrator, LLC (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0085)
- International Documentary Association and seven other filmmaker organizations (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0081)
- Library Copyright Alliance (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0075)
- Michael Mabe (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0012-0073)
The U.S. Copyright Office has released the agendas for the public roundtable sessions announced in its March 28, 2016 Federal Register notice in connection with its study on section 1201 of title 17. The agendas provide the locations and times of the sessions and list the participants assigned to each panel. The agendas are available on the Office website.

The Office also is announcing a change in the schedule for the San Francisco roundtable sessions. Those sessions will be held entirely on May 25, 2016. The Washington, D.C. sessions will take place on May 19 and 20, 2016, as originally scheduled.

For further information on the section 1201 study, please see http://copyright.gov/policy/1201/.

**Section 512 Study**

SECTION 512 STUDY: NOTICE AND REQUEST FOR PUBLIC COMMENT

The United States Copyright Office is undertaking a public study to evaluate the impact and effectiveness of the DMCA safe harbor provisions contained in 17 U.S.C. 512. Among other issues, the Office will consider the costs and burdens of the notice-and-takedown process on large- and small-scale copyright owners, online service providers, and the general public. The Office will also review how successfully section 512 addresses online infringement and protects against improper takedown notices. To aid in this effort, and to provide thorough assistance to Congress, the Office is seeking public input on a number of key questions.

COPYRIGHT OFFICE EXTENDS COMMENT PERIOD FOR SECTION 512 STUDY

The United States Copyright Office has published the attached Federal Register notice extending the deadlines for public comment in connection with the Office’s study on section 512 of Title 17. The study was announced in a Notice of Inquiry issued by the Office on December 31, 2015. Initial written comments in response to the Notice are now due no later than 11:59 p.m. Eastern Time on April 1, 2016.
COPYRIGHT OFFICE ANNOUNCES ROUNDTABLE DISCUSSIONS FOR SECTION 512 STUDY

The United States Copyright Office is announcing two two-day public roundtables to gather additional input for its section 512 study. The roundtables, to take place in New York, New York on May 2 and 3, 2016, and Stanford, California on May 12 and 13, 2016, will offer an opportunity for interested parties to comment on topics relating to the DMCA notice-and-takedown system, as set forth in the Notice of Inquiry issued by the Office on December 31, 2015. Those seeking to participate in the roundtables should complete and submit the online form available at http://copyright.gov/policy/section512/public-roundtable/participate-request.html. Requests to participate must be received by the Copyright Office no later than April 4, 2016. For further information about the section 512 study and roundtable, please see http://copyright.gov/policy/section512/.

COPYRIGHT OFFICE EXTENDS TIME TO SUBMIT REQUESTS TO PARTICIPATE IN 512 ROUNDTABLE DISCUSSIONS

The United States Copyright Office is extending the deadline for the submission of requests to participate in the section 512 roundtables in New York and California, which were announced in its March 18, 2016 Notice of Inquiry. The roundtables, to take place in New York, New York on May 2 and 3, 2016, and Stanford, California on May 12 and 13, 2016, will offer an opportunity for interested parties to comment on topics relating to the DMCA notice-and-takedown system, as set forth in the Notice of Inquiry issued by the Office on December 31, 2015. Those seeking to participate in the roundtables should complete and submit the online form available at http://copyright.gov/policy/section512/public-roundtable/participate-request.html. Requests to participate must now be received by the Copyright Office no later than 11:59 p.m. Eastern Time on April 11, 2016. The Office expects to post the agenda for the New York and California roundtables, including the participants for each session, on or about April 18, 2016. For further information about the section 512 study and roundtable, please see http://copyright.gov/policy/section512/.

SECTION 512 WRITTEN COMMENTS

The Copyright Office received 90,966 written comment submissions in response to its Section 512 study, including 85,844 that are identical as they used a template form created by the advocacy organization Fight for the Future, and 4,981 that submitted short form comments. They are available at https://www.regulations.gov/#!docketBrowser;rpp=25;so=ASC;sb=title;po=0;dct=PS;D=COLC-2015-0013;refD=COLC-2015-0013-0002. The remaining 141 long form comments are available by clicking on the links below:

Rodrigo Adair
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-85964)

Adam Holland and Christopher T. Bavitz
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90188)

Tiffany Gouch aka molasses jones (TM)
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90353)

American Cable Association
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90261)

American Photographic Artists
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90539)

American Photographic Artists, Inc.
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90442)

Todd Andersen
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-85937)

Anonymous Anonymous
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-85988)

Anonymous Anonymous
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-85961)

Application Developers Alliance
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-86011)

Joseph Arnett
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-88112)

Arts and Entertainment Advocacy Clinic at George Mason University School of Law
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90145)

Association of American Publishers
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90457)

Automattic Inc.
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-87349)

Jonathan Bailey
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90271)
Joshua L. Simmons  
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- Matthew Barblan et al.  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-89979)

- Brian Batie  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-86003)

- K Beyer et al  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90951)

- Annemarie Bridy et al.  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-86005)

- BSA | The Software Alliance  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90045)

- William Buckley  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-86778)

- T Bone Burnett, et al.  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90183)

- Gordon Byrnes  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-85939)

- Nick Campolo  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-85996)

- Stephen Carlisle  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-86021)

- Center for Democracy & Technology  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90293)

- Computer & Communications Industry Ass’n  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-86025)

- Richard Conlon  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-85990)

- Consumer Technology Association  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90020)

- Content Creators Coalition  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90917)
• Copyright Alliance
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-89991)

• Copyright Enforcement Group Inc. d/b/a CEG TEK International
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90883)

• Council of Music Creators, METAlliance, Songwriters of North America, et al
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90562)

• CreativeFuture
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-86017)

• CTIA
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90501)

• Jarret Cummings
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-85999)

• DepositFiles
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-89997)

• Digimarc Corporation
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90301)

• Digital Media Association
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-89936)

• Digimarc Media Licensing Association (DMLA)
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90175)

• Directors Guild of America
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-89989)

• Jane Doe et al
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-85987)

• Gina Doe
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-85966)

• Jane Doe
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-85985)

• Jill Doe
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-85967)
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Joshua L. Simmons  
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- DotMusic  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90619)

- Electronic Frontier Foundation  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90217)

- Engine  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90694)

- Eniveed Music  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-85984)

- Etsy, Foursquare, Kickstarter, MakerBot, Meetup, Shapeways, and Stratasys  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-89509)

- Facebook, Inc.  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90724)

- Theodore Feder  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-86024)

- Floor64, Inc., d/b/a the Copia Institute  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-89941)

- Freespeech on Youtube  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-89658)

- Allison Funkhouser  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-88955)

- Johnson George  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-69306)

- Getty Images  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-87425)

- Eric Goldman  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-85942)

- Google  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90806)

- Michael Hansen  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-89397)
ABA Copyright Division
http://apps.americanbar.org/dch/committee.cfm?com=PT030000

- Sarah Hudgins (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90706)
- Vance Ikezoye (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-85992)
- Independent Film & Television Alliance (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90764)
- Intel Corporation (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90291)
- Internet Association (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-89368)
- Internet Commerce Coalition (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90345)
- Internet Infrastructure Coalition (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-89639)
- Dina LaPolt (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-89896)
Joshua L. Simmons
joshua.simmons@kirkland.com

- Library Copyright Alliance
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-89534)
- David Lowery
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-87715)
- Michael Mabe
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-86013)
- Ian Mele
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-89519)
- Microsoft
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90176)
- Sean Moore
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-87530)
- Motion Picture Association of America, Inc.
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90285)
- Mozilla
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90541)
- Elnar Mukhamediarov
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-85982)
- Music Community
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-89806)
- Music Managers
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90935)
- Musicnotes
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-86006)
- National Basketball Association, National Football League, National Hockey
  League and Ultimate Fighting Championship
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90645)
- Matthew Neco
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90873)
- New America's Open Technology Institute
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90718)
ABA Copyright Division
http://apps.americanbar.org/dch/committee.cfm?com=PT030000

- New Media Rights
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90448)

- New York Intellectual Property Law Association
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-89580)

- New York Intellectual Property Law Association (NYIPLA)
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-86000)

- Andrew Norton
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90886)

- Amethyst O'Connell
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-89128)

- Organization for Transformative Works
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-86027)

- Cary Palmer
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-86460)

- Matthew Patasnik
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-85945)

- Gillian Pathey-Johns
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-85995)

- Jon Penney
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90824)

- Performing Rights Society
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-89402)

- Janice Pilch
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-88464)

- Pinterest, Inc.
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90626)

- M. Pope
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90819)

- Nicole Previte
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-88588)
Joshua L. Simmons  
joshua.simmons@kirkland.com

- Professional Photographers of America  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90256)

- Public Knowledge  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90947)

- Savannah Pucella  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-87045)

- Mary Rasenberger  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90422)

- Re:Create  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-89729)

- RECORDING ARTISTS & SONGWRITERS  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90800)

- Ringtone Intellectual Property Group  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90889)

- Cindy Schnackel  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-85954)

- Maria Schneider  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90224)

- Ellen Seidler  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90360)

- Suzanne Shell  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-85959)

- SIIA  

- SiteGround  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90136)

- Smithsonian Folkways Recordings  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-86001)

- Songwriters of North America - Los Angeles Branch  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-88989)
Sony Music Entertainment
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90111)

Maria Sosa
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-85973)

SoundCloud Operations, Inc.
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90151)

Jon Steltenpohl
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-85934)

Rachel Stilwell
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-85960)

TechNet
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-89692)

The Internet Archive
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-85991)

The Recording Academy
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90242)

The Wireless Internet Service Providers Association
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-86012)

Universal Music Group
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90321)

Jennifer Urban et al.
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90867)

USTelecom
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90013)

Verizon Communications
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-90451)

Paul Vixie
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-86010)

Warner Music Group
(https://www.regulations.gov/#!documentDetail;D=COLC-2015-0013-86022)
COPYRIGHT OFFICE ANNOUNCES LOCATION CHANGES FOR SECTION 512 ROUNDTABLES

The locations of the section 512 public roundtables in New York and California, announced in the Office's March 18, 2016, Notice of Public Roundtables, have been changed to larger venues.

The New York roundtable taking place on May 2 and 3 will now be held in room 506 of the Thurgood Marshall United States Courthouse, 40 Centre Street, New York, New York 10007. For the New York roundtable, sessions 1-4 will be held on Monday, May 2 and sessions 5-7, as well as an additional closing session to hear from observers, will be held on Tuesday, May 3, 2016. The roundtables will run from 9:00 am to 5:00 pm on both days.

The California roundtable taking place on May 12 and 13 will now be held in courtroom 4 of the Ninth Circuit's James R. Browning Courthouse, 95 Seventh Street, San Francisco, California 94103. For the California roundtable, sessions 1-4 will be held on Thursday, May 12 and sessions 5-7, as well as an additional closing session to hear from observers, will be held on Friday, May 13, 2016. The roundtables will run from 9:00 am to 5:00 pm on both days.

Federal Register notices announcing the details of these location changes for the New York and California roundtables will be posted on the Office's Section 512 Study page at http://copyright.gov/policy/section512/.

COPYRIGHT OFFICE POSTS AGENDA FOR SECTION 512 ROUNDTABLES IN SAN FRANCISCO, ANNOUNCES ROOM CHANGE

The U.S. Copyright Office has posted the agenda for the section 512 public roundtable taking place on May 12 and 13, 2016 in San Francisco, California. The agenda provides the location and times of the sessions and lists the participants assigned to each session. The agenda is available on the Office website.
The Office is also announcing a change in the room location for the San Francisco section 512 roundtable. Originally scheduled to take place in courtroom four, the roundtable will now be held in courtroom five of the James R. Browning Courthouse, 95 Seventh Street, San Francisco, California 94103.

For further information on the section 512 study, please see http://copyright.gov/policy/section512/.

**Software-Enabled Consumer Products Study**

SOFTWARE-ENABLED CONSUMER PRODUCTS STUDY REPLY WRITTEN COMMENTS

The Copyright Office received 6 reply written comment submissions in response to its software-enabled consumer products study. They are available by clicking on the links below:

- Consumers Union  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0011-0032)
- Copyright Alliance  
  (https://www.regulations.gov/#!documentDetail;D=COLC-2015-0011-0031)
- Engine Advocacy  
- Motion Picture Association of America, Inc.  
- Owners' Rights Initiative  
- Software and Information Industry Association  

SOFTWARE-ENABLED CONSUMER PRODUCTS STUDY: ANNOUNCEMENT OF PUBLIC ROUNDTABLES

The United States Copyright Office has issued Notices of Inquiry ("NOIs") announcing separate public studies on software-enabled consumer products and section 1201 of title 17. In addition to soliciting written comments on these issues, the Office is now announcing public roundtables for these studies to provide forums for interested members of the public to address the issues set forth in the NOIs.

DATES AND ADDRESSES: Public roundtables for the above-referenced Copyright Office studies will be held on the dates and at the locations provided below. The roundtables for the two
studies are being held on consecutive dates in each location to accommodate parties who may have an interest in attending both.

Software-Enabled Consumer Products Study: For its study on software-enabled consumer products, the Office will hold public roundtables in Washington, DC and San Francisco, CA. The roundtable in Washington will take place on May 18, 2016, at the Library of Congress's Madison Building, 101 Independence Avenue SE., Washington, DC 20540, from 9:00 a.m. to approximately 5:00 p.m. The roundtable in San Francisco will take place on May 24, 2016, at Hastings School of Law, 200 McAllister Street, San Francisco, CA 94102, from 9:00 a.m. to approximately 5:00 p.m.

Additional information, including instructions for submitting requests to participate in the roundtables, is available on the Copyright Office Web site at http://copyright.gov/policy/software/ (software-enabled consumer products) and http://copyright.gov/policy/1201/ (section 1201). Requests to participate in the roundtables must be received by the Copyright Office by April 18, 2016. If you are unable to access a computer or the internet, please contact the Office using the contact information below for special instructions.

COPYRIGHT OFFICE AGENDAS AVAILABLE FOR SOFTWARE-ENABLED CONSUMER PRODUCTS STUDY ROUNDTABLES IN WASHINGTON, D.C. AND SAN FRANCISCO, CA

Agendas for the Software-Enabled Consumer Products Study public roundtables taking place on May 18, 2016 in Washington, D.C. and on May 24, 2016 in San Francisco, California are now available on the Copyright Office website. The agendas provide the location and times of the roundtable sessions and include the participants in each session. For further information on the Software-Enabled Consumer Products Study, please see http://copyright.gov/policy/software/.

Mandatory Deposit of Electronic Books and Sound Recordings Available Only Online Study

COPYRIGHT OFFICE REQUESTS PUBLIC COMMENT ON MANDATORY DEPOSIT OF ONLINE-ONLY BOOKS AND SOUND RECORDINGS

The U.S. Copyright Office today published a Notice of Inquiry ("NOI"), seeking public comment on potential changes to the mandatory deposit regulations for electronic works not available in a physical format (referred to as "online-only works"). An interim rule adopted in 2010 creates a limited exception to the Register's longstanding regulatory exemption that online-only works are not subject to mandatory deposit requirements, and also establishes best edition criteria and regulations as to electronic serials. The Library of Congress is now interested in expanding the 2010 interim rule to apply to online-only books and sound recordings. The NOI asks for feedback from affected communities regarding their experience with the interim rule, as well as comments pertaining to the potential application of mandatory deposit to online-only books and sound recordings. The Notice of Inquiry, and instructions on how to submit a comment, are
available on the Copyright Office website. Written comments must be received no later than July 18, 2016 at 11:59 p.m. Eastern Time.

COPYRIGHT OFFICE EXTENDS COMMENT PERIOD FOR NOTICE OF INQUIRY REGARDING MANDATORY DEPOSIT OF ONLINE-ONLY BOOKS AND SOUND RECORDINGS

The U.S. Copyright Office has published a Federal Register notice extending the deadline for submission of written comments in response to its May 17, 2016, Notice of Inquiry regarding the mandatory deposit of electronic books and sound recordings available only online. Written comments in response to the Notice are now due no later than 11:59 p.m. eastern time on August 18, 2016. Additional information, including instructions on how to submit a comment, is available on the Copyright Office website.

MANDATORY DEPOSIT OF ELECTRONIC BOOKS AND SOUND RECORDINGS AVAILABLE ONLY ONLINE STUDY WRITTEN COMMENTS

The Copyright Office received 15 written comment submissions in response to its Mandatory Deposit of Electronic Books and Sound Recordings Available Only Online study. They are available by clicking on the links below:

- Reynold Akison

- Association of American Publishers

- The Authors Guild

- Benetech

- Copyright Alliance

- Santos Garcia

- Library Copyright Alliance
COPYRIGHT OFFICE SEEKS MEETINGS WITH STAKEHOLDERS ON REVISIONS TO LIBRARY AND ARCHIVES EXCEPTIONS

The U.S. Copyright Office today published a Notice of Inquiry ("NOI") inviting interested parties to discuss potential revisions to the library and archives exceptions in the Copyright Act, 17 U.S.C. § 108, in furtherance of the Office's policy work in this area over the past ten years and as part of the current copyright review process in Congress. The Copyright Office has led and participated in major discussions on potential changes to section 108 since 2005, with the goal of updating the provisions to better reflect the facts, practices, and principles of the digital age and to provide greater clarity for libraries, archives, and museums. To finalize its legislative recommendation, the Copyright Office seeks further input from the public on several remaining issues, including, especially, provisions concerning copies for users, security measures, public access, and third-party outsourcing. The Copyright Office therefore invites interested parties to schedule meetings in Washington, D.C. to take place during late June through July, 2016.

The Notice of Inquiry, and instructions on how to request a meeting, are available on the Copyright Office website. Requests must be received no later than July 7, 2016 at 11:59 p.m. Eastern Time.
Reduced Fee for Designating Agenda Under the DMCA Study

OFFICE SEEKS COMMENT ON REDUCED FEE FOR DESIGNATING AGENTS UNDER THE DMCA

The United States Copyright Office has published a notice of proposed rulemaking and request for comments concerning a significant reduction in the fee for online service providers to designate agents to receive notifications of claimed infringement under section 512 of the Digital Millennium Copyright Act ("DMCA"). The Office is proposing the lower fee in anticipation of a new online system through which service providers will be able to more efficiently designate agents with the Office and the public will be able to more easily search for such agents.

At this time, the Office is soliciting comments solely with respect to the proposed $6 fee to designate agents in the new system. Accordingly, comments should be directed only to the appropriateness of the proposed fee. Written comments must be received no later than 11:59 p.m. Eastern Time on June 24, 2016. Additional information and instructions for filing comments are available on the Copyright Office website.

New Procedures

SECTION 115 NOIS MAY NOW BE FILED WITH OFFICE IN BULK ELECTRONIC FORM

The United States Copyright Office is pleased to announce a new procedure to allow licensees to file Notices of Intention to reproduce and distribute musical works under Section 115 (NOIs) with the Office in bulk electronic form. In addition to being more efficient, bulk electronic submission is less expensive for licensees. Details of this new process, including the required forms for making submissions, are available at http://www.copyright.gov/licensing/115/noi-instructions.html.

Notices of Intent to Audit

NOTICE OF INTENT TO AUDIT

The U.S. Copyright Office is announcing receipt of twelve notices of intent to audit certain 2012 and 2013 statements of account filed by cable operators and satellite carriers pursuant to the section 111 and 119 statutory licenses.

Events

SAVE THE DATE: U.S. COPYRIGHT OFFICE WORLD IP DAY PROGRAM ON APRIL 26

For the fifth year in a row, the U.S. Copyright Office will join with the Copyright Alliance for a Copyright Matters program in recognition of World Intellectual Property Day. This year's theme, as announced by the World Intellectual Property Organization, is "Digital Creativity: Culture Reimagined." The program will take place on Tuesday, April 26, from 10:00 a.m. to 11:30 a.m. (EDT) in the Mumford Room (6th Floor, James Madison Memorial Building, Library of
Congress). The program is free and open to the public. Request ADA accommodations five business days in advance at (202) 707-6362 or ada@loc.gov.

Barbara A. Ringer Copyright Honors Program

COPYRIGHT OFFICE ANNOUNCES OPEN APPLICATION PERIOD FOR RINGER FELLOWSHIPS

The Barbara A. Ringer Copyright Honors Program offers 18 to 24-month paid fellowships for recent law school graduates and other attorneys in the early stages of their careers. Candidates must have a strong interest in copyright law and a demonstrated record of achievement in law school or in practice. Ringer Fellows are closely mentored by senior attorneys and work on a range of copyright-related issues, including policy studies and analyses, administrative proceedings, legislative initiatives, litigation matters, and international developments. Applications for the Ringer Honors Program are being accepted from August 1 through October 17, 2016. For more information, including how to apply, please visit the Barbara A. Ringer Copyright Honors Program page at http://www.copyright.gov/about/special-programs/ringer.html.
IV. COPYRIGHT ROYALTY BOARD

Determinations of Rates and Terms

DETERMINATION OF RATES AND TERMS FOR PUBLIC BROADCASTING (PB III)

The Copyright Royalty Judges announce commencement of a proceeding to determine reasonable rates and terms for the use of certain copyrighted works by public broadcasting entities \(2\) for the period beginning January 1, 2018, and ending December 31, 2022. The Copyright Royalty Judges also announce the date by which a party wishing to participate in the rate determination proceeding must file its Petition to Participate and the accompanying $150 filing fee.

DETERMINATION OF RATES AND TERMS FOR SATELLITE RADIO AND “PREEXISTING” SUBSCRIPTION SERVICES (SDARS III)

The Copyright Royalty Judges announce commencement of a proceeding to determine reasonable rates and terms for the digital performance of sound recordings and the making of ephemeral recordings by satellite radio and “preexisting” subscription services \(2\) for the period beginning January 1, 2018, and ending December 31, 2022. The Copyright Royalty Judges also announce the date by which a party wishing to participate in the rate determination proceeding must file its Petition to Participate and the accompanying $150 filing fee.

DETERMINATION OF RATES AND TERMS FOR MAKING AND DISTRIBUTING PHONORECORDS (PHONORECORDS III)

The Copyright Royalty Judges announce commencement of a proceeding to determine reasonable rates and terms for making and distributing phonorecords for the period beginning January 1, 2018, and ending December 31, 2022. The Copyright Royalty Judges also announce the date by which a party wishing to participate in the rate determination proceeding must file its Petition to Participate and the accompanying $150 filing fee.

DETERMINATION OF ROYALTY RATES AND TERMS FOR EPHEMERAL RECORDING AND WEBCASTING DIGITAL PERFORMANCE OF SOUND RECORDINGS (WEB IV)

The Copyright Royalty Judges announce their determination of rates and terms for two statutory licenses (permitting certain digital performances of sound recordings and the making of ephemeral recordings) for the period beginning January 1, 2016, and ending on December 31, 2020.
DETERMINATION OF RATES AND TERMS FOR MAKING AND DISTRIBUTING PHONORECORDS (PHONORECORDS III)

The Copyright Royalty Judges publish for comment proposed regulations that set rates and terms applicable during the period beginning January 1, 2018, and ending December 31, 2022, for the section 115 statutory license for making and distributing phonorecords of nondramatic musical works.

**Adjustment of Rates**

ADJUSTMENT OF CABLE STATUTORY LICENSE ROYALTY RATES

The Copyright Royalty Judges (Judges) announce partial settlement of the proceeding to adjust the rates for the cable statutory license described in section 111 of the Copyright Act (Rate Adjustment Proceeding). The Judges also announce commencement of further proceedings resulting from action by the Federal Communications Commission (FCC) effecting a change in the Sports Rule. Any party that has filed a Petition to Participate in the present proceeding may file a Notice of Intent to Participate in the Sports Rule Surcharge portion of the proceeding without payment of a further filing fee. Any other party in interest wishing to participate in the Sports Rule Surcharge portion of the proceeding must file its Petition to Participate and pay the $150 filing fee.

ADJUSTMENT OF CABLE STATUTORY LICENSE ROYALTY RATES

The Copyright Royalty Judges (Judges) publish for comment proposed regulations governing royalty rates and terms for the distant retransmission of over-the-air television and radio broadcast stations by cable television systems to their subscribers.

**Distributions of Royalty Funds**


The Copyright Royalty Judges announce the final Phase II distribution of cable royalty funds for the years 2000, 2001, 2002 and 2003 for the Program Suppliers programming category.

DISTRIBUTION OF THE 2012-2013 DIGITAL AUDIO RECORDING TECHNOLOGY MUSICAL WORKS ROYALTY FUNDS

In the attached notice, the Copyright Royalty Judges solicit comments on a motion for partial distribution in connection with 2012 and 2013 DART Musical Works Fund royalties.

DISTRIBUTION OF 2013 DIGITAL AUDIO RECORDING ROYALTY FUNDS
The Copyright Royalty Judges announced their determination regarding distribution of the Digital Audio Recording Technologies (DART) royalties deposited with the Licensing Division of the Copyright Office during 2013 to copyright owners and featured recording artists. The Judges issued their determination to the participants in the proceeding in March 2016 and received one motion for rehearing. On May 6, 2016, the Judges denied the motion and forwarded the determination to the Register of Copyrights for the mandatory 60-day review prior to publication in the Federal Register in accordance with 17 U.S.C. 801(f)(1)(D) & 803(c)(6).

Request for Comments

DISTRIBUTION OF 2014 CABLE ROYALTY FUNDS

In the attached notice, the Copyright Royalty Judges solicit comments on a motion of Phase I claimants for partial distribution of 2014 cable royalty funds.

DISTRIBUTION OF 2014 SATELLITE ROYALTY FUNDS

The Copyright Royalty Judges solicit comments on a motion of Phase I claimants for partial distribution of 2014 satellite royalty funds.

Proceedings of the Copyright Royalty Board

PROCEEDINGS OF THE COPYRIGHT ROYALTY BOARD; TECHNICAL AMENDMENT

The Copyright Royalty Judges are adopting a technical amendment to a Copyright Royalty Board rule regarding participation in distribution proceedings. The technical amendment updates the threshold requirement for payment of a filing fee to conform the rule to a statutory provision. The notice is attached.

NOTICE AND RECORDKEEPING FOR USE OF SOUND RECORDINGS UNDER STATUTORY LICENSE

Pursuant to the attached final rule, the Copyright Royalty Judges are amending a Copyright Royalty Board rule regarding reporting requirements for certain Educational Stations that pay no more than the minimum fee for their use of sound recordings under the applicable statutory licenses.

NOTICE AND RECORDKEEPING FOR USE OF SOUND RECORDINGS UNDER STATUTORY LICENSE; TECHNICAL AMENDMENT

The Copyright Royalty Judges published in the Federal Register of May 19, 2016, the attached document amending regulations that govern reporting requirements for noncommercial educational webcasters that pay no more than the minimum fee for their use of sound recordings
under the applicable statutory licenses. Inadvertently, the amendments did not remove a superseded definition and did not include a new defined term in the operative regulations. This document corrects those inadvertent omissions.

NOTICE AND RECORDKEEPING FOR USE OF SOUND RECORDINGS UNDER STATUTORY LICENSE; TECHNICAL AMENDMENT

On June 21, 2016, the Copyright Royalty Judges (Judges) published in the Federal Register a technical amendment to regulations that govern reporting requirements for noncommercial educational webcasters that pay no more than the minimum fee for their use of sound recordings under the applicable statutory licenses. Subsequently, interested parties petitioned the Judges to amend the regulations further to effect the Judges' stated intent. The Judges' hereby publish the proposed amendment and request comments to the proposed rule.

Notices of Intent to Audit

NOTICES OF INTENT TO AUDIT

The following five notices were issued:  (1) The Copyright Royalty Judges announce receipt of four notices of intent to audit the 2012, 2013, and 2014 statements of account submitted by commercial webcasters Batanga, DMX, Muzak Inc., and the 2013 and 2014 statements of account submitted by commercial webcaster Pandora Media Inc., concerning the royalty payments each made pursuant to two statutory licenses.  (2) The Copyright Royalty Judges announce receipt of a notice of intent to audit the 2012, 2013, and 2014 statements of account of DMX concerning the royalty payments its New Subscription Service made pursuant to two statutory licenses.  (3) The Copyright Royalty Judges announce receipt of five notices of intent to audit the 2012, 2013, and 2014 statements of account submitted by broadcasters Beasley Broadcast Group Inc., Greater Media Inc., Saga Communications Inc., and Univision Communications Inc. and the 2013 and 2014 statements of account submitted by broadcaster Townsquare Media Broadcasting concerning royalty payments each made pursuant to two statutory licenses.  (4) The Copyright Royalty Judges announce receipt of a notice of intent to audit the 2012, 2013, and 2014 statements of account of Muzak LLC concerning the royalty payments its Preexisting Subscription Service made pursuant to two statutory licenses.  (5) The Copyright Royalty Judges announce receipt of two notices of intent to audit the 2012, 2013, and 2014 statements of account submitted by DMX and Muzak LLC concerning the royalty payments their Business Establishment Services made pursuant to two statutory licenses.
V. OTHER AGENCIES

Internet Policy Task Force

WHITE PAPER ON REMIXES, FIRST SALE, AND STATUTORY DAMAGES

The Internet Policy Task Force’s White Paper on Remixes, First Sale, and Statutory Damages (White Paper) was published on January 28, 2016 (see attached). In the report, the Task Force summarizes the comments and testimony received from stakeholders and sets forth its conclusions and recommendations on three important copyright topics: (1) the legal framework for the creation of remixes; (2) the relevance and scope of the “first sale doctrine” in the digital environment; and (3) the appropriate calibration of statutory damages in the contexts of individual file sharers and secondary liability for large-scale infringement.

The White Paper recommends amending the Copyright Act to provide both more guidance and greater flexibility to courts in awarding statutory damages by incorporating a list of factors to consider when determining the amount of a statutory damages award. In addition, it advises changes to remove a bar to eligibility for the Act’s “innocent infringer” provision, and to lessen the risk of excessive statutory damages in the context of non-willful secondary liability for online service providers. The report also notes that some concerns raised about damages levels in cases against individuals could be alleviated if Congress were to establish a small claims tribunal with caps on damages awards.

With respect to remixes and the first sale doctrine in the digital environment, the report concludes that the evidence has not established a need for changes to the Copyright Act at this time. The Task Force makes several recommendations, however, to make it easier for remixers to understand when a use is fair and to obtain licenses when they wish to do so. It also recommends the development of best practices by stakeholders to improve consumers’ understanding of the terms of online transactions involving creative works. Finally, it notes the need to continue to monitor legal and marketplace developments to ensure that library lending and preservation concerns are addressed.

Customs and Border Patrol

U.S. Customs and Border Protection (CBP) published in the Federal Register of November 13, 2015, a final rule amending CBP's bond regulations. In that rule, CBP amended the regulation prescribing bond and rider filing requirements and stated, in the preamble, that the agency's intent was to provide additional time for the filing of these documents prior to their effective date. Due to a drafting error, one of the provisions inadvertently provides for a more restrictive time frame for filing a continuous bond, associated application, or rider prior to their effective date. The attached document corrects that provision to conform it to CBP's stated intent to liberalize the bond and rider filing process.
VI. COPYRIGHT IN THE NEWS

January 2016

5 YEARS AND $7 LATER, U.S. RETURNS A SEIZED HIP-HOP SITE
via NYT > Media & Advertising by Ben Sisario on 1/1/16
URL: http://www.nytimes.com/2016/01/02/business/media/5-years-and-7-later-us-returns-a-seized-hip-hop-site.html

The blog OnSmash was among music sites shut down in 2010, accused of copyright infringement and selling counterfeit goods.

THE COPYKAT - STARTING THE YEAR WITH A (BIG) BANG!
via At last ... the 1709 Copyright Blog by Ben Challis on 1/4/16
URL: http://the1709blog.blogspot.com/2016/01/the-copykat-starting-year-with-big-bang.html

Two daughters, Ellen Newlin Chase and Margaret Chase Perry, have filed a copyright infringement case against CBS, who they say featured their mother's lyrics in the show.

2016 IN COPYRIGHT LAW AND POLICY
via Copyhype by Terry Hart on 1/4/16

What can we expect for US copyright policy in 2016?

JUDGE REJECTS LAWSUIT ALLEGING FOX'S 'NEW GIRL' WAS STOLEN FROM TWO WRITERS
via Hollywood Reporter - THR, Esq. by Eriq Gardner on 1/4/16
URL: http://www.hollywoodreporter.com/thr-esq/judge-rejects-lawsuit-alleging-foxs-new-girl-was-stolen-from-two-writers

After two years of fighting, Fox, WME, Peter Chernin and showrunner Elizabeth Meriwether fend off copyright claims.

GOOGLE BOOKS RULING IS 'RADICAL,' AUTHORS TELL HIGH COURT
via Intellectual Property Law360 by Bill Donahue on 1/4/16
URL: http://www.law360.com/ip/articles/742031

The Authors Guild is urging the U.S. Supreme Court to overturn a November ruling upholding the legality of Google’s book search project, calling the decision a “radical rewrite” of the fair use doctrine.
WILL DMCA ‘SAFE HARBOR’ LOOPHOLE FINALLY GET FIXED?
via Vox Indie by Ellen Seidler on 1/4/16
URL: http://voxindie.org/will-safe-harbor-finally-get-fixed/

U.S. Copyright Office announces study on impact and effectiveness of the DMCA safe harbor provisions

WARNER BROS. SUES “HD FURY” OVER BOXES THAT CAN COPY 4K VIDEO
via Ars Technica by Joe Mullin on 1/4/16
URL: http://arstechnica.com/tech-policy/2016/01/warner-bros-sues-hd-fury-over-boxes-that-can-copy-4k-video/

There are several devices sold under the "HD Fury" brand. But lawyers working for Warner Bros. and Digital Copy Protection say that only this device, the "Integral 4K60 4:4:4 600MHz," can break the HDCP 2.2 copy protection that protects 4k video. (credit: HD Fury)

THE BIG BANG THEORY SUED FOR USING “SOFT KITTY” LYRICS IN HIT TV SHOW
via Ars Technica by David Kravets on 1/4/16

The heirs to a poet who claim their mother wrote a poem popularized in the TV series The Big Bang Theory are suing CBS and others connected to the sitcom for allegedly using the "soft kitty" lyrics without their permission on at least eight episodes.

SPOTIFY HIT WITH $150M COPYRIGHT INFRINGEMENT SUIT
via Intellectual Property Law360 by Y. Peter Kang on 1/4/16
URL: http://www.law360.com/ip/articles/742167

An independent rock musician has lobbed a $150 million putative class action at Spotify, accusing the music streaming service of conducting an “egregious” and ongoing campaign of copyright infringement, according to a complaint filed in California federal court.

RIVAL OF ‘GAME OF WAR’ APP MAKER SETTLES $100M IP SUIT
via Intellectual Property Law360 by Y. Peter Kang on 1/4/16
URL: http://www.law360.com/ip/articles/742552

Ember Entertainment agreed to settle claims brought by the maker of the popular “Game of War” mobile video game in a $100 million copyright infringement suit over Ember’s zombie-
focused mobile offering “Empire Z,” according to documents filed in California federal court on Monday.

RICHARD PRINCE HIT WITH COPYRIGHT SUIT FROM ANOTHER PHOTOG
via Intellectual Property Law360 by Bill Donahue on 1/4/16
URL: http://www.law360.com/ip/articles/742144

Artist Richard Prince has been hit with another copyright lawsuit in New York federal court over his “appropriation art,” this time by a photographer who says his images were used in Prince’s recent Instagram-themed exhibit.

FOX KILLS 'NEW GIRL' COPYRIGHT SUIT
via Intellectual Property Law360 by Bill Donahue on 1/4/16
URL: http://www.law360.com/ip/articles/741964

A California federal judge has booted a lawsuit claiming Fox Broadcasting Co. Inc. and the creators of the sitcom “New Girl” stole the show from an unproduced screenplay, ruling that there was no evidence they ever even saw the earlier script.

OPINION: DON'T DISMISS 'MONKEY SELFIE' CASE AS DISTRACTION
via Intellectual Property Law360 by Justin F. Marceau on 1/5/16
URL: http://www.law360.com/ip/articles/742433

The frequently discussed "monkey selfie" case asks whether, as a legal matter, a nonhuman primate can ever be an “author” of something he deliberately creates. Whatever answer the courts eventually provide, the sophistication of an animal's mind is a matter deserving of litigation, says Justin Marceau of the University of Denver Sturm College of Law.

WHY EXPERTS SAY THE LATEST COPYRIGHT LAWSUIT AGAINST RICHARD PRINCE MATTERS
via ArtNet News by Brian Boucher on 1/5/16
URL: https://news.artnet.com/art-world/richard-prince-lawsuit-expert-opinions-402173

Yet another lawsuit has been filed by a photographer against a major artist, and the case could have a major impact on the interpretation of copyright ...
9TH CIRC. URGED NOT TO RETHINK YOGA POSE COPYRIGHT RULING
via Intellectual Property Law360 by Jenna Ebersole on 1/5/16
URL: http://www.law360.com/ip/articles/743051

A yoga studio asked the Ninth Circuit on Monday to refuse to rehear claims filed by yoga guru Bikram Choudhury alleging the “Bikram Sequence” of yoga poses is protected by copyright, arguing the petition is based on a misunderstanding of copyright law.

COPYRIGHT ROYALTY BOARD SET TO BEGIN 3 NEW ROYALTY PROCEEDINGS - MECHANICAL ROYALTY, SIRIUS XM ...
via Lexology by David D. Oxenford on 1/4/16
URL: http://www.lexology.com/library/detail.aspx?g=ba26022e-6f09-4919-aca7-be421607fe40

In tomorrow's Federal Register, the Copyright Royalty Board will announce the commencement of three new proceedings to set music royalties for the ...

ADOBE LOSES COPYRIGHT INFRINGEMENT CASE TO SOFTWARE SURPLUS
via FindLaw Writ - Recent Articles by Jonathan R. Tung, JD on 1/4/16

If you buy a software program and sell that software program to a third person, is that a copyright violation? According to Adobe it is. But not according to the Court of Appeals in the Ninth Circuit. The circuit court held that Adobe did not meet the shifted burden it......

KIM DOTCOM EXTRADITION CASE HIGHLIGHTS DE FACTO SOPA, PIPA RULES
via IPWatchdog.com | Patents & Patent Law by Steve Brachmann on 1/6/16
URL: http://www.ipwatchdog.com/2016/01/06/64430/id=64430/

New Zealand Judge Nevin Dawson handed down a ruling that would allow the United States to move forward with the extradition of Kim Dotcom, the founder of the former Megaupload.com, one of the world’s most popular file sharing websites at the height of its power. Kim and others involved with Megaupload have been sought under counts of criminal copyright infringement, racketeering, conspiracy to commit money laundering as well as aiding and abetting criminal copyright infringement. The original...
'MONKEY SELFIE' JUDGE SAYS ANIMALS CAN'T SUE OVER COPYRIGHT
via Intellectual Property Law360 by Beth Winegarner on 1/6/16
URL: http://www.law360.com/ip/articles/742904

The California federal judge overseeing the People for the Ethical Treatment of Animals' lawsuit accusing a nature photographer of violating a monkey's copyright on the primate's selfie said Wednesday that he doesn't see any protections for animals in the Copyright Act.

FILMON'S COPYRIGHT LICENSE QUEST HEADS RIGHT FOR DC CIRC.
via Intellectual Property Law360 by Margaret Harding McGill on 1/6/16
URL: http://www.law360.com/ip/articles/743116

A D.C. federal judge gave online TV streaming service FilmOn X the go-ahead to immediately appeal to the D.C. Circuit her ruling that the company is not eligible for a compulsory copyright license that would allow it retransmit broadcast networks’ programming, according to a filing Monday.

ORACLE WANTS SINGLE DAMAGES PERIOD IN $1B GOOGLE SUIT
via Intellectual Property Law360 by Kelly Knaub on 1/6/16
URL: http://www.law360.com/ip/articles/743388

Oracle America Inc. on Tuesday slammed Google's attempt to separately analyze damages in its $1 billion software copyright lawsuit, saying Google’s recent statement that the Android phone's new open-source code is licensed by Oracle is “fantasy” and doesn’t justify separate damages periods for the code at issue.

'WALK OF SHAME' COPYRIGHT SUIT HEADED FOR 9TH CIRC. APPEAL
via Intellectual Property Law360 by Bill Donahue on 1/6/16
URL: http://www.law360.com/ip/articles/742976

The screenwriter who accused Elizabeth Banks and others of stealing the movie "Walk of Shame" from his unproduced screenplay is taking his case to the Ninth Circuit, adding another chapter to a lawsuit that the defense has called "a bad faith effort to extort settlement money."

9TH CIRC. FURTHER CLARIFIES 1ST SALE DEFENSE FOR SOFTWARE
via Intellectual Property Law360 by Erik S. Syverson & Scott M. Lesowitz on 1/6/16
URL: http://www.law360.com/ip/articles/742554

The Ninth Circuit's recent decision in Adobe Systems v. Christenson is significant to copyright law practitioners for laying out the process regarding the burdens of proof for a first sale defense.
It also provides a concrete example of insufficient evidence to defeat a first sale defense, say Erik Syverson and Scott Lesowitz of Raines Feldman LLP.

**JUDGE: MONKEY CAN'T SUE OVER SELFIE**
via Law.com - Newswire by Ross Todd on 1/6/16
URL: http://www.law.com/sites/articles/2016/01/06/judge-monkey-cant-sue-over-selfie/

Those advocating for the crested macaque Naruto have no standing under the Copyright Act, said U.S. District Judge William Orrick III.

**9TH CIRC. DENIES GOOGLE FROM WEIGHING IN ON COPYRIGHT RULING**
via Intellectual Property Law360 by Zachary Zagger on 1/6/16
URL: http://www.law360.com/ip/articles/743480

The Ninth Circuit rejected an amicus brief from Google and others in yoga guru Bikram Choudhury’s bid to rehear a case over whether his yoga poses are copyrightable, after Google had wanted the court to clarify the circuit’s copyright law related to another case Google is facing from Oracle over open-source code.

**CONTROVERSIAL ARTIST FACES TOUGHER FAIR USE FIGHT IN NEW SUIT**
via Intellectual Property Law360 by Bill Donahue on 1/6/16
URL: http://www.law360.com/ip/articles/743575

Appropriation artist Richard Prince won a landmark 2013 ruling that the fair use doctrine allowed him to use a photographer's copyrighted images without permission, but new infringement accusations filed over another exhibit might be far harder for him to shake off.

**2H 2015 QUICK LINKS, PART 1 (COPYRIGHT)**
via Technology & Marketing Law Blog by Eric Goldman on 1/6/16
URL: http://blog.ericgoldman.org/archives/2016/01/2h-2015-quick-links-part-1-copyright.htm

* Norberto-Colon Lorenzana v. South American Restaurants Corp., No. 14-1698 (1st Cir. Aug. 21, 2015): “a chicken sandwich is not eligible for copyright protection. This makes good sense; neither the recipe nor the name Pechu Sandwich fits any of the eligible categories and, therefore, protection under the Copyright Act is unwarranted. A recipe — or any instructions — listing the combination of chicken, lettuce, tomato, cheese, and mayonnaise on a bun to create a sandwich is quite plainly not a copyrightable work.” Related post.
COPYRIGHT OFFICE TO REVIEW SAFE HARBOR IN DMCA
via The Illusion of More by David Newhoff on 1/6/16

Remember Bill Clinton? If you don’t, he’s that guy who was just in New Hampshire campaigning for his wife Hilary, who’s running for president. Anyway, Bill Clinton was president so damn long ago that when he was first sworn into … Continue reading →

LAST YEAR, WE ASKED GOOGLE TO TAKE DOWN HALF A BILLION URLS FOR COPYRIGHT INFRINGEMENT
via Quartz by Thu-Huong Ha on 1/6/16
URL: http://qz.com/587514/last-year-we-asked-google-to-take-down-half-a-billion-urls-for-copyright-infringement/

From Popcorn Time (the “Netflix for piracy”) to Aurus (the Popcorn Time for music), close on the heels of every new free digital entertainment service …

US COPYRIGHT OFFICE IS TAKING COMMENTS ABOUT HOW WELL THE DMCA IS WORKING
via Ars Technica by Joe Mullin on 1/6/16

The Electronic Frontier Foundation's 2007 "dancing baby" case dates back to a takedown of a home video of a toddler.

JUDGE SAYS MONKEY CANNOT OWN COPYRIGHT TO FAMOUS SELFIES
via Ars Technica by David Kravets on 1/6/16

A federal judge on Wednesday said that a monkey that swiped a British nature photographer's camera during an Indonesian jungle shoot and snapped selfies cannot own the intellectual property rights to those handful of pictures.
ANDROID N SWITCHES TO OPENJDK, GOOGLE TELLS ORACLE IT IS PROTECTED BY THE GPL
via Ars Technica by Ron Amadeo on 1/6/16
URL: http://arstechnica.com/tech-policy/2016/01/android-n-switches-to-openjdk-google-tells-oracle-it-is-protected-by-the-gpl/

The Oracle v. Google legal battle over the use of Java in Android keeps on going, but this week Google made a change to Android that it hopes will let the company better navigate its current legal trouble.

ADULT FILM CO. WANTS COPYRIGHT ROW SENT TO ARBITRATION
via Intellectual Property Law360 by Caroline Simson on 1/7/16
URL: http://www.law360.com/ip/articles/743975

Adult film distributor AMA Multimedia LLC told a Nevada federal judge Wednesday there is no reason not to force international commercial arbitration in AMA's copyright dispute with a Spanish web company, as the parties have agreed that the arbitration provision in a previous agreement is valid.

BAND SAYS UMG OWES ROYALTIES FOR VOCALS IN TIMBERLAKE HIT
via Intellectual Property Law360 by Kelly Knaub on 1/7/16
URL: http://www.law360.com/ip/articles/743677

The 1970s band Sly Slick & Wicked sued Universal Music Group Inc. in New York federal court Wednesday, alleging it failed to compensate the group for using vocal performances from their song “Sho’ Nuff” in Justin Timberlake's hit "Suit & Tie."

ANIMAL RIGHTS GROUP LOSES COPYRIGHT SUIT OVER MONKEY SELFIES
via NPR: Technology Podcast by Nina Totenberg on 1/7/16
URL: http://www.npr.org/2016/01/07/462293356/animal-rights-group-loses-copyright-suit-over-monkey-selfies

A federal judge ruled Wednesday that a monkey cannot own the copyrights to selfies he took.

WHY CANADA HAS NOTHING TO FEAR OVER TPP AND INTELLECTUAL PROPERTY
via Financial Post by Barry Sookman on 1/6/16

Critics have it wrong. Trade deal presents a generational opportunity.
INDUSTRY EFFORTS TO FIGHT DIGITAL PIRACY COMPLEMENT GOVERNMENT ACTION
via The Hill by Daniel Castro & Nigel Cory on 12/30/15

Online piracy remains a perennial problem.

RICHARD RUSSO ON AUTHORS GUILD V. GOOGLE
via The Authors Guild by Richard Russo on 1/6/16
URL: https://www.authorsguild.org/industry-advocacy/richard-russo-on-authors-guild-v-google/

Authors Guild council member Richard Russo weighs in on Authors Guild v. Google and the redistribution of wealth from the creative sector to the tech sector.

PICTURE THIS: MONKEY SEE, MONKEY CAN'T SUE
via Hollywood Reporter - THR, Esq. by Eriq Gardner on 1/7/16
URL: http://www.hollywoodreporter.com/thr-esq/picture-monkey-see-monkey-cant-852831

A federal judge rules that monkeys don't have the standing to file a copyright lawsuit over a selfie.

NO COPYRIGHTS FOR CRITTERS SAYS JUDGE
via The Illusion of More by David Newhoff on 1/7/16
URL: http://illusionofmore.com/no-copyrights-for-critters-says-judge/

Readers may be astonished, relieved, or understandably apathetic to learn that a federal judge in California has ruled that a Sulawesi macaque may not sue for copyright infringement. In fact, Judge William Orrick broadened his ruling to affirm that no … Continue reading →

TELL US WHAT'S WRONG WITH THE DMCA, SAYS US COPYRIGHT OFFICE
via The Register on 1/7/16
URL: http://www.theregister.co.uk/2016/01/07/us_copyright_office_wants_input_on_dmca/

The US Copyright Office is asking the tech industry and members of the public to comment about the Digital Millennium Copyright Act (DMCA), and in ...
SWITCH TO OPEN SOURCE JAVA LIMITS GOOGLE COPYRIGHT EXPOSURE
via Bloomberg BNA by Tony Dutra on 12/30/15
URL: http://www.bna.com/switch-open-source-n57982065845/

Google Inc.'s decision to move to an open-source platform for support of the Java software functionality—"key to its Android operating ..."

ADULT FILM CO. WANTS COPYRIGHT ROW SENT TO ARBITRATION
via Law360: Media & Entertainment by Caroline Simson on 1/7/16
URL: http://www.law360.com/media/articles/743975

Adult film distributor AMA Multimedia LLC told a Nevada federal judge Wednesday there is no reason not to force international commercial arbitration in AMA's copyright dispute with a Spanish web company, as the parties have agreed that the arbitration provision in a previous agreement is valid.

PLAYWRIGHT WANTS FEES AFTER BEATING 'WHO'S ON FIRST' SUIT
via Law360: Media & Entertainment by Bill Donahue on 1/7/16
URL: http://www.law360.com/media/articles/743554

After successfully defeating a copyright lawsuit over his use of the famous "Who's on First?" comedy routine, the playwright behind Broadway play "Hand of God" is claiming he should be awarded attorneys' fees for a case inconveniently filed "on the eve of the Tony Awards."

JOIN US AT THE COPYRIGHT AND TECHNOLOGY NYC 2016 CONFERENCE ON JANUARY 19
via CPIP by Devlin Hartline on 1/7/16
URL: http://cpip.gmu.edu/2016/01/07/join-us-at-the-copyright-and-technology-nyc-2016-conference-on-january-19/

Co-produced by GiantSteps, the Copyright Society, and Musonomics, the Copyright and Technology NYC 2016 Conference will be held at New York University’s Kimmel Center on Tuesday, January 19th. CPIP is a proud Media Sponsor of the event.

U.S. COPYRIGHT OFFICE WANTS YOU TO COMMENT ON THE DMCA
via FindLaw Writ - Recent Articles by Jonathan R. Tung, JD on 1/8/16

Just before 2015 became yesterday's news, the United States Copyright Office issued a statement of intended plans to open a public study meant to "evaluate the impact and effectiveness of the
safe harbor provisions contained in section 512 of title 17, U.S.C." For those who aren't copyright law geeks, that's......

HDFURY SUED BY WARNER BROS. FOR PRODUCT THAT COPIES 4K VIDEO via FindLaw Writ - Recent Articles by Jonathan R. Tung, JD on 1/7/16

Another new year, another fresh intellectual property lawsuit to start things off. Warner Bros. and the creator and license holder of HDCP (Hi-Definition Copyright Protection) software, Digital Content Protection, LLC, have jointly sued Chinese outfit Legendsky (dba HDFury) over allegations that at least one of its devices strips content of......

10TH CIR. TAKES UP ARCHITECTURAL COPYRIGHT FOR FIRST TIME via FindLaw Writ - Recent Articles by Casey C. Sullivan, Esq. on 1/7/16
URL: http://blogs.findlaw.com/tenth_circuit/2016/01/10th-cir-takes-up-architectural-copyright-for-first-time.html

A Colorado couple who built a three-bedroom ranch house did not infringe upon the architectural copyright of a custom home designer, the Tenth Circuit ruled on Tuesday. Savant Home, a custom home builder, created a model three-bedroom ranch house in Windsor, Colorado. That house was toured by Ron and......

MAJOR PIRACY GROUP WARNS GAMES MAY BE CRACK-PROOF IN TWO YEARS via Ars Technica by Kyle Orland on 1/7/16

In the never-ending battle between pirates and game makers, it often seems like the pirates have the upper hand, releasing DRM-breaking cracks within hours or days of a game's official release.

9TH CIR. WON'T RETHINK WARNER CLAIM IN $80M 'HOBBIT' ROW via Intellectual Property Law360 by Matthew Bultman on 1/8/16
URL: http://www.law360.com/ip/articles/744166

Warner Bros. can press forward with its counterclaim in an $80 million copyright suit that says J.R.R. Tolkien's estate breached an agreement over the rights to “Hobbit” and “Lord of the Rings” games, after the Ninth Circuit refused Thursday to rehear the matter.
2015 saw the second-most patent infringement cases brought to court, according to Lex Machina’s data. A total of 5,830 patent cases were filed, a 15 percent increase over the 5,070 patent cases which were filed during 2014. 2015 still trailed behind 2013 in terms of patent infringement cases; that year set the high-water mark for patent infringement cases with 6,114 cases filed in that year. The post 2015 litigation trends highlight increased patent litigation, decreases in file sharing cases...

The judge rejected a copyright claim filed by People for the Ethical Treatment of Animals.

The Project on the Foundations of Private Law at Harvard Law School is seeking applicants for the Qualcomm Postdoctoral Fellowship in Private Law and Intellectual Property. The Fellowship is a two-year, residential postdoctoral program specifically designed to identify, cultivate, and promote promising scholars early in their careers with a primary interest in intellectual property and its connection with one or more of property, contracts, torts, commercial law, unjust enrichment, restitution, equity, and remedies. For more information and application procedures, please visit the Project’s website: here.

A Bahamas man accused of hacking into celebrities' email accounts and stealing scripts for upcoming movies and television shows pled not guilty in New York federal court on Friday to criminal copyright infringement and identity theft charges.
SEX TOY MAKER WINS INTIMATE IP 'GRUDGE MATCH' AGAINST EX
via Intellectual Property Law360 by Daniel Siegal on 1/8/16
URL: http://www.law360.com/ip/articles/744647

A California federal jury on Thursday handed a sex toy maker and distributor victory in a copyright dispute with his ex-wife and her rival company over designs for girth-bolstering products, awarding him $5,000 in a lawsuit one defense attorney called an expensive "grudge match."

FOX NEWS HEADS TO FAIR USE TRIAL OVER 9/11 PHOTO
via Intellectual Property Law360 by Bill Donahue on 1/8/16
URL: http://www.law360.com/ip/articles/744599

Fox News Network will kick off a jury trial in Manhattan on Monday over whether it infringed a famous — and famously copyrighted — photo of firemen on 9/11 by posting it to a Facebook page, proceedings that should deeply explore the role of the fair use doctrine in social media.

SPOTIFY SUED BY ANOTHER MUSICIAN FOR COPYRIGHT INFRINGEMENT
via The Verge by Nick Statt on 1/9/16
URL: http://www.theverge.com/2016/1/9/10743032/spotify-lawsuit-copyright-infringement-music-royalties

Spotify has been slapped with a copyright lawsuit for the second time in two weeks. Massachusetts-based artist Melissa Ferrick claims Spotify failed to ...

US INTELLECTUAL PROPERTY LAW IN 2016: A PREVIEW
via Intellectual Property Watch by Steven Seidenberg on 1/11/16

Familiar intellectual property concerns will continue to vex the United States in the coming year. The scope of patent-eligible subject matter, the requirements for safe-harbor protections against copyright infringement, and the registration of disparaging trademarks will be among the top IP issues to watch in 2016, according to experts.

WE NEED EVERY YOP
via The Illusion of More by David Newhoff on 1/11/16
URL: http://illusionofmore.com/we-need-every-yop/

As a follow-up to my post from last week discussing the Copyright Office review of Section 512 of the DMCA, I’m going to shift from my usual format of the editorial essay to outright endorsement of grassroots efforts aimed at …
ORACLE DISCOVERY BID IN $1B GOOGLE IP ROW RIPPPED BY JUDGE
via Intellectual Property Law360 by Kurt Orzech on 1/11/16
URL: http://www.law360.com/ip/articles/745430

A California federal judge on Monday refused Oracle America Inc.’s last-minute request for 17,000 documents from Google Inc.’s privilege log in a $1 billion suit accusing Google of software copyright infringement, saying the discovery bid was “beyond the pale.”

SUPREME COURT WON'T LOOK AT TRIMMING OF CALIF. ROYALTY ACT
via Intellectual Property Law360 by Beth Winegarner on 1/11/16
URL: http://www.law360.com/ip/articles/744916

The U.S. Supreme Court on Monday preserved a Ninth Circuit decision narrowing California's Resale Royalty Act to apply only to in-state sales of artwork, refusing to take up an appeal in three proposed class actions claiming Christie's Inc., Sotheby's Inc. and eBay Inc. owed artists royalties.

I NEVER SAW DAVID BOWIE PLAY LIVE
via The Illusion of More by David Newhoff on 1/11/16
URL: http://illusionofmore.com/i-never-saw-david-bowie-play-live/

And I’ve never owned a David Bowie tee-shirt. Or any Bowie merchandise other than his albums. But like tens of millions around the world, who are today mourning the loss of one of music’s best loved, most diverse, and most …

STORE OWNERS DROPPED FROM SPORTS PHOTOGRS MEMORABILIA SUIT
via Intellectual Property Law360 by David Newhoff on 1/11/16
URL: http://www.law360.com/ip/articles/745609

Professional sports photographers who hit several memorabilia dealers with a copyright suit alleging they are selling collectibles that use their photographs without permission have agreed to dismiss claims against the owners of a Wisconsin store, according to court documents filed Monday.

BLEACHER REPORT ACCUSED OF FLOUTING NFLER PICS' COPYRIGHTS
via Intellectual Property Law360 by Braden Campbell on 1/12/16
URL: http://www.law360.com/ip/articles/745247

Sports blog Bleacher Report was accused of copyright infringement in California federal court Monday for allegedly publishing pictures of New England Patriots tight end Rob Gronkowski without permission.
MIKE HUCKABEE TRIES "RELIGIOUS ASSEMBLY" DEFENSE IN 'EYE OF THE TIGER' COPYRIGHT SUIT
via Hollywood Reporter - THR, Esq. by Eriq Gardner on 1/13/16
URL: http://www.hollywoodreporter.com/thr-esq/mike-huckabee-tries-religious-assembly-855582

The Republican presidential candidate is facing legal action over the choice of music at an event to celebrate Kentucky clerk Kim Davis.

JAY Z RAPS 'BIG PIMPIN' COPYRIGHT CLAIM IN 2ND CIRC.
via Intellectual Property Law360 by Max Stendahl on 1/13/16
URL: http://www.law360.com/ip/articles/744472

An attorney for Jay Z and the rapper's Roc-A-Fella Records told the Second Circuit on Wednesday that a music producer had waited too long to file a copyright suit claiming co-ownership of dozens of songs the label released in 1999 and 2000, including the hit “Big Pimpin’.”

PIRACY APOLOGISTS’ CONVENIENT LIE — PROFITS FOR HOLLYWOOD PROOF PIRACY DOESN’T HURT
via Vox Indie by Ellen Seidler on 1/13/16
URL: http://voxindie.org/piracy-apologists-convenient-lie-profits-for-hollywood-proof-piracy-doesnt-hurt/

Yes Virginia, piracy damages both the film industry and its audience. It’s that time of year again, when the piracy apologists pull out their annual canard that Hollywood’s profits provide proof that online piracy doesn’t hurt the film industry. That’s the assessment Ernesto made in his Torrent Freak post, Pirates Fail to Prevent 38 Billion Box Office Record: …the MPAA and other […]

THE (POTENTIAL) SOUNDS OF SILENCE
via The Hill by Tom Schatz on 1/13/16

The copyright of a song is a property right that is regulated unlike any similar form of intellectual property. Given the complex and unfair compensation ...
THE GAME OF INTELLECTUAL PROPERTY HIDE AND SEEK: THE IMPORTANCE OF INDEMNITY CLAUSES FOR IP ...
via Texas Lawyer by Paul Keller & Stephanie Kunz on 1/13/16

Although with some exceptions, exclusive licenses also grant to the licensee the right to sue for copyright infringement of the licensed right. In sum, the ...

PEOPLE ACCUSED OF ONLINE PIRACY WIN $450000 FROM WARNER BROS AND RIGHTS CORP IN CLASS ACTION ...
via IBTimes by Mary-Ann Russon on 1/13/16
URL: http://www.ibtimes.co.uk/people-accused-online-piracy-win-450000-warner-bros-rights-corp-class-action-lawsuit-1537799

Usually it's the pirates who have to pay the copyright holders, but in a strange twist of fate, several copyright holders including Warner Bros, together ...

PHOTOGRAPHER SUES MCGRAW-HILL EDUCATION ALLEGING COPYRIGHT INFRINGEMENT
via PennRecord.com by Carrie Bradon on 1/13/16
URL: http://pennrecord.com/stories/510657058-photographer-sues-mcgraw-hill-education-alleging-copyright-infringement

George Steinmetz filed a complaint Dec. 14 in the U.S. District Court for the Eastern District of Pennsylvania against McGraw-Hill Global Education ...

HOLLYWOOD JUST FIRED BACK AT THE PIRATE GROUP THAT LEAKED QUENTIN TARANTINO'S NEW MOVIE
via Business Insider by Rob Price on 1/13/16
URL: http://www.businessinsider.com/hollywood-copyright-alliance-keither-kupferschmidt-calls-pirate-group-hive-cm8-claims-absurd-2016-1

He's the CEO of Copyright Alliance, a non-profit organisation that represents artists' and studios' copyright interests, and whose members include the ...
"The Copyright Act provides that in an action for copyright infringement, the Court may award 'a reasonable attorneys' fee to the prevailing party as ..."
A LOOK AT THE MARRAKESH TREATY RATIFICATION IN BRAZIL
via Intellectual Property Watch on 1/14/16

The Marrakesh Treaty, first of its kind, will enter into force three months after the deposit of the instruments of ratification or accession by 20 eligible countries. So far, thirteen have done so. Brazil, which was one of the main proponents and negotiators, deposited its ratification of the treaty on December 11, 2015, after the yearlong internal legislative process. The key question we are trying to face here is how the ratification of this treaty may impact Brazilian copyright legislation and the interpretation of the limitations.

SORRY NOT SORRY
via Copyright Alliance by Keith Kupferschmid on 1/12/16
URL: https://copyrightalliance.org/2016/01/sorry_not_sorry

Last month, Hive-CM8, the so-called piracy release group, announced plans to leak an unprecedented 40 new films online – many of them high-quality “screeners” of movies contending for various awards. The group made good on their threat, releasing about half of the stolen films, including “Creed,” “Spectre,” “Steve Jobs,” and “The Hateful Eight.” The last of these films was released by the group one week before its scheduled premiere in theaters.

IP IN ACTION: INNOVATORS AND TECH POLICYMAKERS CONVERGE AT CES
via Global Intellectual Property Center by Matt Harakal on 1/14/16

Recently, GIPC joined over 170,000 people from around the world in Las Vegas to take in some of the incredible new innovations and technologies on display at the annual Consumer Electronics Show (CES).

JUDGE ALLOWS GRAFFITI ARTIST'S LAWSUIT OVER KATY PERRY'S MET GALA DRESS
via Hollywood Reporter - THR, Esq. by Eriq Gardner on 1/14/16
URL: http://www.hollywoodreporter.com/thr-esq/judge-allows-graffiti-artists-lawsuit-855973

The renowned street artist known as "Rime" wins the right to pursue a well-known fashion designer for ripping off his mural.
FOX SEeks $550K FEES FOR FAILED 'NEW GIRL' COPYRIGHT SUIT
via Intellectual Property Law360 by Y. Peter Kang on 1/14/16
URL: http://www.law360.com/ip/articles/746692

After successfully defeating a copyright lawsuit over the genesis of sitcom “New Girl,” Fox Broadcasting Co. said Wednesday in California federal court it should be awarded about $550,000 in attorneys' fees, saying there was no factual basis for the claims.

ON PIRACY AND PROMOTION
via The Illusion of More by David Newhoff on 1/14/16
URL: http://illusionofmore.com/on-piracy-and-promotion/

Charlie: Dad, how can you hate The Colonel? Stuart (Scottish accent): Because he puts an addictive chemical in his chicken that makes you crave it fortnightly, Smart Ass! – So I Married an Axe Murderer (1993) – As mentioned in …

ENDLESS WHACK-A-MOLE: WHY NOTICE-AND-STAYDOWN JUST MAKES SENSE
via CPIP by Devlin Hartline on 1/14/16
URL: http://cpip.gmu.edu/2016/01/14/endless-whack-a-mole-why-notice-and-staydown-just-makes-sense/

Producer Richard Gladstein knows all about piracy. As he recently wrote for The Hollywood Reporter, his latest film, The Hateful Eight, was “viewed illegally in excess of 1.3 million times since its initial theatrical release on Christmas Day.”

NETFLIX TO BLOCK TOOLS THAT FLOUT LOCAL COPYRIGHT RESTRICTIONS
via Bloomberg Business by Lucas Shaw on 1/14/16

Netflix Inc. will step up its efforts to block subscribers from watching TV shows and movies not available on the streaming service in their home country, ...

COPYRIGHT CLAIM AGAINST STARBUCKS CAMPAIGN DISMISSED
via Bloomberg BNA by Anandashankar Mazumdar on 1/13/16
URL: http://www.bna.com/copyright-claim-against-n57982066255/

Starbucks cannot be subject to a claim of copyright infringement just because its recent Frappuccino advertising campaign used colored …
HIGH COURT TO WEIGH RESELLER'S FEE BID IN COPYRIGHT CASE
via Intellectual Property Law360 by Vin Gurrieri on 1/15/16
URL: http://www.law360.com/ip/articles/747529

The U.S. Supreme Court agreed Friday to hear a Thai college student’s appeal seeking to win attorneys’ fees after beating claims he imported and illegally sold foreign edition textbooks online via the auction site eBay, marking the second go-around for the case before the high court.

TWITTER SUED FOR COPYRIGHT INFRINGEMENT & FOR IGNORING DMCA TAKEDOWN REQUESTS
via Adland on 1/14/16
URL: http://adland.tv/adnews/twitter-sued-copyright-infringement/509951055

The recent rumblings about the Twitter copyright Infringement Report feature, and possibly overzealous removals of tweets such as Jim Edwards screeendumped graphs on copyright ground have signalled a change in the platforms treatment of copyrights.

2ND CIRC. TOSSES IP SUIT OVER 50 CENT SONG
via Intellectual Property Law360 by Y. Peter Kang on 1/15/16
URL: http://www.law360.com/ip/articles/747188

The Second Circuit on Friday upheld a lower court’s dismissal of a copyright infringement suit brought by a rapper claiming he held the exclusive rights for the looped beat underlying 50 Cent's hit song "I Get Money,” ruling that the claims were time-barred.

BERNIE SANDERS LAWYERS TO WIKIPEDIA: TAKE DOWN OUR LOGO, YOU’RE VIOLATING DMCA [UPDATED]
via Ars Technica by Joe Mullin on 1/15/16

A lawyer representing Democratic presidential candidate Bernie Sanders has demanded that several of the campaign's logos be removed from Wikipedia, saying that reproducing the logos violate copyright law.
COURT: COPYRIGHT CLAIM AGAINST RAPPER 50 CENT MUST BE TOSSED
via ABC News on 1/15/16

An appeals court says it agrees with a judge who rejected a New York copyright lawsuit against rapper 50 Cent on the grounds it was filed too late.

MONSTER BEVERAGE CORP. SETTLES COPYRIGHT…
via ABA Journal by Martha Neil on 1/15/16
URL: http://www.abajournal.com/news/article/monster_settles_copyright_cases_over_beastie_boys_tunes

Monster Beverage Corp. has settled on undisclosed terms two related lawsuits that accused the company of using without permission excerpts from ...

NETFLIX BOUND BY COPYRIGHT RULES, CONTRACTS WITH STUDIOS
via CBC News by Jillian Bell on 1/15/16

So what if Canadian Netflix doesn't have 30 Rock? If you're like many Canucks, you haven't let being north of the U.S. border stop you from watching ...

BEASTIE BOYS, MONSTER SETTLE COPYRIGHT LAWSUIT
via Reuters by Jonathan Stempel on 1/15/16
URL: http://www.reuters.com/article/us-monster-beverage-beastieboys-idUSKCN0UT27D

They fought for their copyright. And now they have settled. Beastie Boys have resolved their lawsuit accusing Monster Beverage Corp of using ...

US SUPREME COURT TO HEAR CUOZZO AND KIRTSANG CASES
via Managing Intellectual Property by Michael Loney on 1/15/16

The petition noted that Section 505 of the Copyright Act provides that a "court may … award a reasonable attorney's fee to the prevailing party" in a ...
TECH GIANTS CALL FOR COPYRIGHT LAW OVERHAUL
via The Australian

Underscoring the focus on copyright policy, Australia's biggest telecommunications companies have also agreed to a controversial “three strikes” ...

NOTICE-AND-STAYDOWN AND GOOGLE SEARCH: THE WHACK-A-MOLE PROBLEM CONTINUES UNABATED
via CPIP by Devlin Hartline on 1/17/16

After my last post discussing the necessity for notice-and-staydown to help copyright owners with the never-ending game of whack-a-mole under the DMCA, I was asked to clarify how this would work for Google Search in particular.

COPYRIGHT OFFICE, MASON LAW SCHOOL ANNOUNCE ACADEMIC PARTNERSHIP
via IPWatchdog.com | Patents & Patent Law on 1/18/16
URL: http://www.ipwatchdog.com/2016/01/18/copyright-office-mason-law-academic-partnership/id=65071/

The United States Copyright Office and George Mason University School of Law announced last Friday that they have formed an academic partnership, working through Mason Law’s recently-launched Arts & Entertainment Advocacy Clinic, directed by Professor Sandra Aistars.

SUPREME COURT TAKES UP COPYRIGHT CASE OVER RESOLD TEXTBOOKS—AGAIN
via Ars Technica by Joe Mullin on 1/18/16
URL: http://arstechnica.com/tech-policy/2016/01/supreme-court-takes-up-copyright-case-over-resold-textbooks-again/

Supap Kirtsaeng built himself a business on eBay buying textbooks in Asia and reselling them to students in the US.
JUSTICES ASKED TO REJECT COPYRIGHTS ON CHEERLEADER UNIFORMS
via Intellectual Property Law360 by Bill Donahue on 1/19/16
URL: http://www.law360.com/ip/articles/747478

A Missouri company is urging the U.S. Supreme Court to overturn a ruling that cheerleading uniforms can be copyrighted, saying Congress never intended garments to be protected by copyrights.

PANELS LOOK AT IP CONSIDERATIONS IN REPRESENTING CREATIVE TALENT
via Intellectual Property Watch by William New on 1/19/16

At a conference of hundreds of performers and agents in a hotel perched on Times Square this week, panellists told some interesting stories about intellectual property rights and protecting – or failing to protect - creations and performances.

COPYRIGHT IS NOTHING TO JOKE ABOUT
via Intellectual Property, Patent, Trademark & Copyright News by Dylan J. Price on 1/19/16
URL: http://www.natlawreview.com/article/copyright-nothing-to-joke-about

Last summer, comedian Robert Kaseberg filed a copyright infringement suit against Conan O’Brien, among others, alleging that O’Brien incorporated four jokes written by Kaseberg in the opening monologues of his television show “Conan.” According to the complaint, Kaseberg published each of the jokes – all of which were based on then-current events and news stories – on his personal blog and Twitter feed on various dates between January and June, 2015, only to have O’Brien feature the same jokes in his monologues on the same respective da

MUSIC ON THE CAMPAIGN TRAIL
via The Illusion of More by David Newhoff on 1/19/16
URL: http://illusionofmore.com/music-on-the-campaign-trail/

In the Fall of 1977, just weeks before gay rights activist Harvey Milk won a seat on the San Francisco Board of Supervisors, the English rock band Queen released the album News of the World. The LP included a short, …
ARE BOTTING PROGRAMS A FORM OF COPYRIGHT INFRINGEMENT?
via IPLJ by Joshua Brandman on 1/19/16
URL: http://www.fordhamiplj.org/2016/01/19/are-botting-programs-a-form-of-copyright-infringement/

Online gaming continues to grow in popularity as technology keeps improving and game developers continue to innovate.

DOES THE NINTH CIRCUIT’S “DANCING BABY” DECISION MEAN ANYTHING FOR FAIR USE UNDER THE DMCA’S ANTICIRCUMVENTION RULES?
via Info/Law by Tim Armstrong on 1/19/16

Last fall, in Lenz v. Universal Music Corp., the Ninth Circuit ruled that copyright owners are required to have a procedure (even if it is mostly an automated, computer-implemented procedure) in place to consider whether someone else’s use of the copyright owner’s work online is legally protected under the fair use doctrine prior to sending a takedown notice to the site where the work has been posted.

SUPREME COURT TO EXAMINE FEE AWARDS IN COPYRIGHT CASES
via Reuters by Andrew Chung on 1/19/16
URL: http://www.reuters.com/article/ip-copyright-fees-idUSL2N1532V1

The U.S. Supreme Court has agreed to review how lower courts award attorneys' fees in copyright infringement cases, taking up a Thai bookseller's ...

UK CAN FINALLY 'LEGALISE HOME TAPING' WITHOUT BRINGING IN DAFT NEW TAX
via The Register by Andrew Orlowski on 1/19/16
URL: http://www.theregister.co.uk/2016/01/19/copyright_levy_alternative_legally_compliant_cjeu/

EU governments don't have to impose a levy on blank media to compensate copyright holders for losses from private copies, the European Court of ...
FOX SAYS 'EMPIRE' DIDN'T RIP OFF PIMP'S MEMOIRS
via Intellectual Property Law360 by Daniel Siegal on 1/19/16
URL: http://www.law360.com/ip/articles/747944

Fox and the creators and star of its hit series "Empire" on Tuesday urged a California federal judge to dismiss a self-described “gangsta pimp's” $10 million suit alleging the show infringes his memoir and documentary, arguing the two stories are clearly distinct.

EX-VILLAGE PEOPLE STAR MISSED BOAT ON ROYALTIES, JUDGE SAYS
via Intellectual Property Law360 by Kurt Orzeck on 1/19/16
URL: http://www.law360.com/ip/articles/748327

A California federal judge on Tuesday tossed a $6 million copyright suit in which a former lead singer of disco group The Village People sought royalties from a French music publisher for live performances and allegedly fraudulent claims of co-authorship.

LAW REVISION TO CRACK DOWN ON COPYRIGHT INFRINGEMENT
via The Japan News on 1/20/16

The Yomiuri Shimbun The government has decided to allow for prosecution of copyright infringement without the need for a formal complaint from the ...
A California federal judge refused Wednesday to freeze a California class action in which rock band The Turtles are seeking royalty payments from Sirius XM Radio Inc. for thousands of pre-1972 recording artists as the Ninth Circuit considers a related case.

JUSTICES SET TO CLEAN UP ATTYS' FEES IN COPYRIGHT CASES
via Intellectual Property Law360 by Bill Donahue on 1/20/16
URL: http://www.law360.com/ip/articles/748309

The U.S. Supreme Court is set to offer clear guidance on exactly when courts should award attorneys' fees to successful copyright litigants — a frequently litigated question that has divided circuit courts in the 20 years since the justices last tried to set them straight.

HULK HOGAN, GAWKER NUDGED TO MEDIATE $100M SEX TAPE ROW
via Intellectual Property Law360 by Jeff Zalesin on 1/21/16
URL: http://www.law360.com/ip/articles/748897

Hulk Hogan’s $100 million lawsuit against Gawker Media LLC over the publication and coverage of a sex tape should go back to mediation after the lawyers in the case get a chance to watch unredacted versions of DVDs provided by the FBI, a Florida state judge said on Wednesday.

GOOGLE ORDERED TO TURN OVER DEAL INFO IN ORACLE IP SUIT
via Intellectual Property Law360 by Jenna Ebersole on 1/21/16
URL: http://www.law360.com/ip/articles/748921

A California federal judge on Wednesday partially granted a pretrial discovery request jointly submitted by Google and Oracle in a long-running suit alleging the search giant's Android operating system infringes copyrighted Java code, ordering Google to turn over certain details of search agreements with providers of non-Android mobile platforms.

DON’T RELY ON YOUR PARENTS TO DO YOUR DMCA WORK
via Intellectual Property, Patent, Trademark & Copyright News by Beth A. Seals on 1/21/16
URL: http://www.natlawreview.com/article/don-t-rely-your-parents-to-do-your-dmca-work

Do you remember hearing the phrase “don’t rely on your parents to do your dirty work”? The district judge in a recent DMCA case may have had this principle in mind when he held that a website owner could not rely on its parent company’s DMCA agent designation to shield itself from a copyright infringement claim.
RUSSIAN FILMMAKER SEES PIRACY AS PATH TO OBSCUURITY
via The Illusion of More by David Newhoff on 1/21/16
URL: http://illusionofmore.com/russian-filmmaker-sees-piracy-as-path-to-obscurity/

With few exceptions, a short film has almost no market value today. Certainly, a short can be the occasional prelude to work that might have market value—either as a calling card for the filmmaker or as a “proof-of-concept” draft for …

SUPREME COURT ASKED TO REVIEW BATMOBILE COPYRIGHT DISPUTE
via Hollywood Reporter - THR, Esq. by Eriq Gardner on 1/22/16
URL: http://www.hollywoodreporter.com/thr-esq/supreme-court-asked-review-batmobile-858268

A mechanic warns the justices about the danger of letting a legal decision in favor of Warner Bros. stand.

BAIUL SAYS COPYRIGHT NOT AT ISSUE IN NBC CONTRACT FIGHT
via Intellectual Property Law360 by Hannah Sheehan on 1/22/16
URL: http://www.law360.com/ip/articles/749141

Olympic gold medalist and champion figure skater Oksana Baiul asked a New York federal judge Wednesday to remand her breach of contract suit against NBC Sports over royalties from a 1994 television special back to state court, saying the federal court lacks jurisdiction.

CBC V SODRAC: MY TALK ON TECHNOLOGICAL NEUTRALITY AND COPYRIGHT
via Barry Sookman by Barry Sookman on 1/22/16
URL: http://www.barrysookman.com/2016/01/22/cbc-v-sodrac-my-talk-on-technological-neutrality-and-copyright/

I had the pleasure of speaking yesterday at the Law Society of Upper Canada 20th Annual IP Law: The Year in Review. I spoke on the topic of Copyright and Technological Neutrality: CBC v SODRAC. My slides are shown below.

PENGUIN RANDOM HOUSE EBOOKS NOW LICENSED FOR PERPETUAL ACCESS
via American Libraries Magazine by Robert C. Maier on 1/20/16
URL: http://americanlibrariesmagazine.org/blogs/e-content/penguin-random-house-ebooks-now-licensed-perpetual-access/

As of January 1, all Penguin Random House ebooks are now licensed to libraries under the terms previously offered by Random House.
ENDLESS WHACK-A-MOLE: WHY NOTICE-AND-STAYDOWN JUST MAKES SENSE via Law Theories by Devlin Hartline on 1/14/16
URL: http://lawtheories.com/?p=2400

Producer Richard Gladstein knows all about piracy. As he recently wrote for The Hollywood Reporter, his latest film, The Hateful Eight, was “viewed illegally in excess of 1.3 million times since its initial theatrical release on Christmas Day.”

PHOTOGRAPHER SUES TWITTER FOR NOT REMOVING PHOTOS DESPITE DMCA REQUESTS via PetaPixel by Michael Zhang on 1/16/16
URL: http://petapixel.com/2016/01/16/photographer-sues-twitter-for-not-removing-photos-despite-dmca-requests/

A photographer has launched a copyright infringement lawsuit against Twitter, claiming that the social media company failed to remove a photo of hers that was posted without permission, and even after she sent multiple DMCA takedown requests to have the posts deleted.

NO, PIRACY IS NOT THE SINCEREST FORM OF FLATTERY via HuffPost Business by Robert D. Atkinson, Ph.D. on 1/14/16
URL: http://www.huffingtonpost.com/robert-d-atkinson-phd/no-piracy-is-not-the-sincerest_b_8980402.html

During the holidays, the piracy-tracking firm Excipio released its annual list of the most-pirated films of 2015, showing that the number of illegal downloads from peer-to-peer networks had dramatically increased in the preceding year.

SECOND CIRCUIT DENIES FILM DIRECTOR COPYRIGHT INTEREST via IPLJ by Rachelle Polsky on 1/22/16
URL: http://www.fordhamiplj.org/2016/01/22/second-circuit-denies-film-director-copyright-interest/

This past June, the United States Court of Appeals for the Second Circuit decided a case with significant importance for the film industry.
BATMOBILE MAKER ASKS HIGH COURT TO REVIEW COPYRIGHT CLAIM
via Intellectual Property Law360 by Bonnie Eslinger on 1/22/16
URL: http://www.law360.com/ip/articles/749719

A California mechanic who makes Batmobile replicas asked the U.S. Supreme Court on Friday to review a Ninth Circuit determination that his vehicles infringed upon DC Comics’ property rights, arguing automobiles and other “useful items” are not copyrightable.

50 CENT WINS IN COPYRIGHT INFRINGEMENT CASE AT THE SECOND CIRCUIT
via FindLaw Writ - Recent Articles by Jonathan R. Tung, Esq. on 1/22/16

The rapper 50 Cent was given a victory in court by the Second Circuit's Court of Appeals by tossing out the copyright suit "Young Caliber" brought against him. But rather than something as complex as a debate over exclusive or non-exclusive use of copyright, it turns out that the plaintiff's......

CZECH PIRATE PARTY BEING PROSECUTED OVER WEB LINKS
via Prague Post by Raymond Johnston on 1/22/16

The police are pursuing charges against the Czech Pirate Party because of its operation of a website that has weblinks to copyrighted television ...

LATEST VILLAGE PEOPLE SONG SPAT DISMISSED
via Courthouse News Service by Bianca Bruno on 1/22/16

A federal judge this week dismissed with leave to amend copyright claims to 24 songs brought by an original member of camp ...

REPORT: GOOGLE PAID APPLE $1 BILLION FOR IOS SEARCH PRIVILEGE
via Black Enterprise by Samara Lynn on 1/24/16

Oracle, however, views the matter as one specifically of copyright infringement. Even courts have been inconsistent on the issue, with a ruling first in ...
SUPREME COURT ASKED TO CONSIDER BATMOBILE COPYRIGHT CASE
via Comic Book Resources by Kevin Melrose on 1/22/16

In his petition to the Supreme Court, Towle insists that the U.S. Copyright Office states outright that automobiles aren't copyrightable, and that the Ninth ... 

DYLAN THOMAS COPYRIGHT CLAIMS THROWN OUT BY IRISH COURT
via The Guardian by Henry McDonald on 1/22/16
URL: http://www.theguardian.com/books/2016/jan/22/dylan-thomas-copyright-claims-thrown-out-irish-court-photographs

An Irish court has thrown out a case taken against the Welsh government over an alleged breach of copyright in relation to photographs of poet Dylan ...

ORACLE BLURTS GOOGLE'S ANDROID SECRETS IN COURT: YOU MADE $22BN USING JAVA, PUNK
via The Register by Chris Williams on 1/21/16
URL: http://www.theregister.co.uk/2016/01/21/oracle_java_google_spat_latest/

Oracle is in the middle of suing Google for copyright infringement, accusing the search kingpin of ripping off the Java language APIs in Android. Oracle ...

GOOGLE PAID APPLE $1 BILLION TO KEEP SEARCH BAR ON IPHONE
via Bloomberg Business by Joel Rosenblatt on 1/21/16

s copyright lawsuit against Google. The search engine giant has an agreement with Apple that gives the iPhone maker a percentage of the revenue ...

KARAOKE CRASHERS: GROUP SAYS BAR VIOLATED US COPYRIGHT LAW
via ABC News by Bill Draper on 1/21/16
URL: http://abcnews.go.com/Entertainment/wireStory/karaoke-crashers-group-bar-violated-us-copyright-law-36434897

Refrain, karaoke lovers, from swooning the bar crowd with tales of discovering your hometown angel is a centerfold. A national songwriters' ...
PLAYBOY SUING TWO CANADIAN WEB PUBLICATIONS OVER KATE MOSS NUDE SPREAD
via 570 News by Colin Perkel on 1/21/16
URL: http://www.570news.com/2016/01/21/playboy-suing-two-canadian-web-publications-over-kate-moss-nude-spread/

The copyright suit against Toronto-based Contempo Media and Montreal's Indecent Xposure seeks up to $50,000 in damages from each outlet.

COPYRIGHT SUITS TARGET 'JOHN DOE' DEFENDANTS
via Chicago Daily Law Bulletin by Roy Strom on 1/21/16
URL: http://www.chicagolawbulletin.com/copyright-01-21-16.aspx

There were 439 copyright lawsuits filed in the U.S. District Court for the ... defendants — through their IP addresses — of stealing copyrighted movies ...

ASCAP SUES KC BAR AND GRILL FOR COPYRIGHT INFRINGEMENT
via Kansas City Business Journal by James Dornbrook on 1/21/16

The American Society of Composers, Authors and Publishers (ASCAP) filed nine separate copyright infringement lawsuits against bars and ...

DYLAN THOMAS PHOTOS COPYRIGHT CASE DISMISSED IN DUBLIN
via BBC on 1/21/16

A breach of copyright claim against the Welsh government over photographs used of Dylan Thomas in a tourism drive has been thrown out by a court ...

COPYRIGHT ROYALTIES FOR STREAMING MUSIC TO INCREASE
via Lexology by Carl M. Davis II on 1/20/16
URL: http://www.lexology.com/library/detail.aspx?g=fa06697b-2ee0-4656-9a77-35086664d800

On December 16 2015 the Copyright Royalty Board (CRB) ordered ... music providers for payments to copyright holders, musicians and composers for ...
INDUSTRY VOICES STICK TO PLAYBOOK TALKING DMCA
via The Illusion of More by David Newhoff on 1/24/16
URL: http://illusionofmore.com/industry-voices-stick-to-playbook-talking-dmca/

Remember when I posted A Guide to Critiquing Copyright in the Digital Age? Quite a few people read it and seemed to enjoy it, which is cool. And most recently, it seems that Joshua Lamel, executive director at Re:Create, wrote …

9TH CIRC. WON'T REHEAR YOGA POSE COPYRIGHT RULING
via Intellectual Property Law360 by Matthew Bultman on 1/26/16
URL: http://www.law360.com/ip/articles/750707

The Ninth Circuit on Monday decided not to rehear a case over whether Bikram Choudhury’s yoga poses are copyrightable, knocking down the yoga guru’s bid to revive copyright claims he and his yoga college brought against a studio run by his former students.

RIMINI FIGHTS ORACLE’S EFFORT TO HIKE $56.2M FEES, COSTS
via Intellectual Property Law360 by Kevin Penton on 1/26/16
URL: http://www.law360.com/ip/articles/750731

Rimini Street Inc. and its chief executive officer challenged on Monday an additional $1.9 million in costs and attorneys’ fees that Oracle is seeking after a Nevada federal jury awarded it $50 million in copyright infringement damages in October, deeming its total fees and costs request of about $58.2 million to be “outrageous.”

GOOGLE ASKS COURT TO NIX MISS. AG'S TRIAL BID IN PIRACY ROW
via Intellectual Property Law360 by Vin Gurrieri on 1/26/16
URL: http://www.law360.com/ip/articles/750735

Google told a Mississippi federal court Monday to nix Mississippi Attorney General Jim Hood’s request that a jury hear the tech giant’s suit that attempts to block a probe into whether it enables the online sale of illegal drugs and pirated movies, saying the case does not warrant a jury trial.

RECORD LABELS ACCUSE MP3TUNES FOUNDER OF SEPARATING FROM WIFE TO HIDE ASSETS
via Hollywood Reporter - THR, Esq. by Eriq Gardner on 1/26/16
URL: http://www.hollywoodreporter.com/thr-esq/record-labels-accuse-mp3tunes-founder-859527

Michael Robertson is facing a $15.8 million judgment for infringing song copyrights.
MONKEY SELFIE SUIT IS NOT ALL MONKEY BUSINESS.
via The Illusion of More by David Newhoff on 1/26/16
URL: http://illusionofmore.com/monkey-selfie-suit-monkey-business/

A couple weeks ago, I scorned the righteously flamboyant PETA for trying to sue a British photographer named David Slater for copyright infringement on behalf of an Indonesian macaque whom the animal rights group calls “Naruto”. I mocked this monkey-pre-trial …

RUTH VITALE – WITHOUT COPYRIGHT…WE CANNOT BE CREATIVE AND INNOVATIVE.
via Vox Indie by Ellen Seidler on 1/26/16
URL: http://voxindie.org/ruth-vitale-copyright-innovation-ensures-creative-future/

An interview worth listening to: Ruth Vitale, CEO of Creative Future, talked about technology and innovation in the film industry during a recent radio interview with journalist John Hockenberry for the public radio morning show The Takeaway on WNYC and PRI. Creative Future promotes the value of creativity in today’s digital age and during the interview Vitale explains the ties that bind […]

PROTECTING GLOBAL IP RIGHTS IS AN ECONOMIC IMPERATIVE
via Real Clear Markets by Randolph May & Seth Cooper on 1/27/16
URL: http://www.realclearmarkets.com/articles/2016/01/27/protecting_global_ip_rights_is_an_economic_imperative_101975.html

As we explain in our recent book, The Constitutional Foundations of Intellectual Property, America's Founders regarded copyright and patent rights as …

COPYRIGHT IS UNDER ATTACK FOR PHOTOGRAPHERS IN SERBIA
via PetaPixel by Michael Zhang on 1/26/16
URL: http://petapixel.com/2016/01/26/copyright-is-under-attack-for-photographers-in-serbia/

Photographers in Serbia are protesting and raising awareness this week in response to a new proposal in parliament that threatens the basic …

RUSSIAN TORRENTS WEBSITE STRIPS COPYRIGHT HOLDERS OF THEIR RIGHTS
via The Moscow Times on 1/26/16
URL: http://www.themoscowtimes.com/article/556924.html

Rutracker.org, the world's largest Russian-language torrents website, has deprived copyright holders of the ability to delete illegal downloads, the …
SUPREME COURT ASKED TO OVERTURN BATMOBILE RULING
via Bloomberg BNA by Anandashankar Mazumdar on 1/25/16
URL: http://www.bna.com/supreme-court-asked-n57982066533/

A federal appeals court erred in ruling that the Batmobile was a literary character protectable under federal copyright law, according to a ...

SERBIAN PHOTOJOURNALISTS APPEAL AGAINST THREAT TO COPYRIGHT
via Daily Mail on 1/25/16
URL: http://www.dailymail.co.uk/wires/reuters/article-3416059/Serbian-photojournalists-appeal-against-threat-copyright.html

Photojournalists in Serbia appealed to lawmakers on Monday to reject a proposal by the ruling party to define their ...

DAVID BOWIE WAS WRONG ABOUT COPYRIGHT — THANKFULLY
via Washington Post by Robert Gebelhoff on 1/25/16
URL: https://www.washingtonpost.com/news/in-theory/wp/2016/01/25/david-bowie-was-wrong-about-copyright-thankfully/

We can be thankful that his prophecy did not come true, as copyright laws continue to play an essential role in our creative economy — and have done ...

URBAN OUTFITTERS INFRINGEMENT VERDICT IS SOUND, 9TH CIRC. TOLD
via Intellectual Property Law360 by Cristina Violante on 1/27/16
URL: http://www.law360.com/ip/articles/750617

Unicorns Inc. urged the Ninth Circuit to uphold a finding that Urban Outfitters Inc. and Century 21 Department Stores LLC infringed a copyrighted fabric design, arguing that it has proven ownership of the print and that a judge and a jury correctly found the clothing retail chains clearly copied its work.

BMG SEEKS TO BLOCK ILLEGAL DOWNLOADS AFTER $25M COX VERDICT
via Intellectual Property Law360 by Vin Gurrieri on 1/27/16
URL: http://www.law360.com/ip/articles/751250

Music publisher BMG Rights Management, which recently won a jury verdict ordering Internet service provider Cox Communications to pay $25 million for turning a blind eye to illegal music downloads by its subscribers, told a Virginia federal court Tuesday that an injunction is needed to block further infringement.
CRIMINAL OR CIVIL LIABILITY FOR SHARING STREAMING ACCOUNTS?
via Intellectual Property, Patent, Trademark & Copyright News by Drew Wilson on 1/27/16
URL: http://www.natlawreview.com/article/criminal-or-civil-liability-sharing-streaming-accounts

We are at the beginning of a new era of media consumption. Traditional content delivery systems such as satellite and cable television are hemorrhaging customers to a wave of “cord cutting” that has been facilitated by the availability of streaming services such as Hulu Plus, Netflix and HBO Go.[1] Now that smart televisions are becoming more common place, cord cutting is no longer limited to the technologically hip youth, as accessing a Netflix account is as easy as changing the channel.

'STAR TREK' FANS TAP WINSTON COPYRIGHT WHIZ TO FIGHT SUIT
via Intellectual Property Law360 by Bill Donahue on 1/27/16
URL: http://www.law360.com/ip/articles/751504

Facing a copyright infringement lawsuit from Paramount Pictures and CBS, the producers of an unauthorized Star Trek spinoff have found themselves a lawyer — and it just so happens to be a Winston & Strawn LLP partner with lots of experience defending against high-profile copyright claims. In an interview with Law360, Erin Ranahan talks about her career in copyright law, the Trek case, and taking it on pro bono.

ORACLE RAISES QUESTIONS ON OPEN-SOURCE LICENSE FOR ANDROID WITH OPENJDK
via ITworld News by John Ribeiro on 1/26/16
URL: http://www.law360.com/ip/articles/751504

Oracle has raised questions whether a version of Google's Android operating system running OpenJDK code will at all get an open-source license.

GOOGLE WANTS ORRICK ATTY SANCTIONED FOR REVENUE REVEAL
via Intellectual Property Law360 by Kat Greene on 1/27/16
URL: http://www.law360.com/ip/articles/751901

Google Inc. wants sanctions for Oracle Corp. and its Orrick Herrington & Sutcliffe LLP attorney Annette Hurst after Hurst revealed in open court protected financial information about the search giant’s revenue, according to a letter filed in California federal court Wednesday.
AFTER $25 MLN SMACKDOWN, COX STILL INFRINGING COPYRIGHTS, BMG CLAIMS
via Reuters by Andrew Chung on 1/27/16
URL: http://www.reuters.com/article/ip-copyright-cox-idUSL2N15B3DL

Despite a $25 million rebuke by a federal jury in December for contributing to piracy on its Internet service, Cox Communications has not learned its ...

STRENGTHEN PROTECTION OF COPYRIGHTS TO SAFEGUARD THE CREATIVE DRIVE
via Chicago Tribune on 1/27/16

Appropriate protection of intellectual property is indispensable for cultural and industrial development. It is important to change the current system into ...

NEW YORK TIMES SUES PUBLISHER OVER WAR PHOTOS, FAIR USE AT ISSUE
via Fortune by Jeff John Roberts on 1/26/16
URL: http://fortune.com/2016/01/26/new-york-times-copyright/

In a case that raises questions about copyright and free expression, the New York Times is suing a publisher who used thumbnail reproductions of the ...

POPULAR WEST VALLEY RESTAURANT ACCUSED OF PLAYING COPYRIGHTED MUSIC WITHOUT PERMISSION
via Tucson News Now by Jason Barry on 1/26/16

The establishment, which is located in the Westgate Entertainment District, is accused of playing copyrighted songs without permission. A lawsuit has ...

YOGA GURU'S LEGAL WOES MOUNT AS DAMAGES SEEM INDISPUTABLE
via Intellectual Property Law360 by Zachary Zagger on 1/28/16
URL: http://www.law360.com/ip/articles/751584

Bikram Yoga founder Bikram Choudhury's legal woes have mounted this week after a jury slapped him with $6.4 million in damages for wrongfully firing his legal adviser, just a day after the Ninth Circuit put an end to an appeal over copyrighting his yoga poses, and experts say he is unlikely to have it overturned.
COMMERCE RECOMMENDS AMENDMENTS TO COPYRIGHT ACT STATUTORY DAMAGES PROVISIONS
via IPWatchdog.com | Patents & Patent Law by Gene Quinn on 1/28/16

Earlier today the U.S. Department of Commerce issued a report titled White Paper on Remixes, First Sale, and Statutory Damages, which recommends amendments to U.S. copyright law that would provide more guidance and greater flexibility to courts in awarding statutory damages. However, the Task Force has found insufficient evidence to show that there is a change in circumstance in the markets or technology that requires action on amending the first sale doctrine. The post Commerce Recommends...

THE HIGH PRICE OF FREE
via AlistaPart on 1/26/16
URL: http://alistapart.com/article/the-high-price-of-free

Doing business in the web industry has unbelievably low start-up and fixed running costs.

COSPLAY, COPYRIGHT AND FAIR USE
via Cos Puree by Hsing Tseng on 1/21/16
URL: http://www.cospuree.com/2016/01/21/cosplay-copyright-and-fair-use/

Don’t panic, cosplayers. A claim you may have seen on social media, that cosplay is going before the Supreme Court and could become copyright infringement, isn’t what it seems.

'MONKEY SELFIE' JUDGE DETAILS DECISION TO TOSS COPYRIGHT SUIT
via Intellectual Property Law360 by Bill Donahue on 1/29/16
URL: http://www.law360.com/ip/articles/752753

A California federal judge issued a written ruling Friday explaining his decision to toss a lawsuit engineered by People for the Ethical Treatment of Animals that claimed an ape could sue for copyright infringement over a famed "monkey selfie."

SPORTS MEMORABILIA SELLER NOT COVERED IN IP ROW, COURT TOLD
via Intellectual Property Law360 by Matthew Perlman on 1/28/16
URL: http://www.law360.com/ip/articles/751786

State Farm told a Wisconsin federal court Wednesday that it shouldn’t have to cover a retailer accused of selling sports collectibles that use copyrighted photographs without permission because its policy doesn’t cover copyright infringement.
FEDS PUSH TO REIN IN ‘EXCESSIVE’ COPYRIGHT DAMAGES
via Intellectual Property Law360 by Bill Donahue on 1/28/16
URL: http://www.law360.com/ip/articles/752006

The U.S. Department of Commerce issued a long-awaited report on copyright law Thursday, pushing for changes to the Copyright Act’s system of statutory damages to avoid “excessive and inconsistent” awards.

INTERNET POLICY TASK FORCE SEEKS CHANGES TO US COPYRIGHT STATUTORY DAMAGES LAW
via Intellectual Property Watch by Dugie Standeford on 1/28/16

The United States Copyright Act should be amended in a “very careful” way to change the way statutory damages are awarded to successful copyright owners against infringing individuals and online services, Shira Perlmutter, US Patent and Trademark Office chief policy officer and international affairs director, said today.

PARTY RAISING “FIRST SALE” DEFENSE TO COPYRIGHT INFRINGEMENT BEARS INITIAL BURDEN OF PROOF
via Intellectual Property, Patent, Trademark & Copyright News by Elisabeth Morgan on 1/29/16

Addressing the appropriate allocation of the burden of proof related to the “first sale” defense to copyright infringement, the U.S. Court of Appeals for the Ninth Circuit confirmed that the initial burden of proof falls on the party raising the defense and affirmed a district court’s grant of summary judgment in favor of a software reseller defendant.

MASSACHUSETTS: RELATING A SOFTWARE COPYRIGHT INFRINGEMENT CLAIM BACK TO ITS SOURCE
via Intellectual Property, Patent, Trademark & Copyright News by Scott Bertulli on 1/29/16

In a recent order, Judge Douglas P. Woodlock of the District of Massachusetts untangled a complicated timeline to decide motions for summary judgment regarding several copyright infringement and related claims on a statute of limitations basis. The analysis is instructive to prospective plaintiffs as to when a complaint should be filed, which potential defendants it should include, and what level of knowledge provides proper notice of a claim.
UNDERSTANDING DMCA WITH HELP FROM MICHELLE SHOCKED
via The Illusion of More by David Newhoff on 1/29/16
URL: http://illusionofmore.com/dmca-with-michelle-shocked/

It is a chronically repeated theme—and therefore a widely held misconception—that the DMCA is solely a mechanism for rights holders to unilaterally and unequivocally remove content from the Web “without due process”. In fact, this belief is so deeply ingrained …

GOOD NEWS FOR ARTISTS AS SUPPORT FOR COPYRIGHT SMALLS CLAIMS PROCESS GROWS
via Vox Indie by Ellen Seidler on 1/28/16
URL: http://voxindie.org/support-for-copyright-smalls-claims-process-grows/

Commerce Department white paper supports creation of copyright small claims process Today the Department of Commerce Internet Policy Task Force (which includes the USPTO) released its long anticipated white paper on “Remixes, First Sale, and Statutory Damages–Copyright Policy, Creativity, and Innovation in the Digital Economy.” Among its findings is support for a copyright small claims process to adjudicate infringement claims. The […]

REMIXES, MASHUPS DON'T MERIT A COMPULSORY LICENSE, SAYS TASK FORCE
via Billboard by Glenn People on 1/29/16

It turned out that few stakeholders advocated either a change to copyright law by adding a compulsory license or some other exception. But the paper …

CAMPAIGNS KEEP RUNNING INTO COPYRIGHT TROUBLE OVER MUSIC
via Bloomberg BNA by Anandashankar Mazumdar on 1/29/16
URL: http://www.bna.com/campaigns-keep-running-b57982066761/

This isn't the first time that the race for the Republican presidential nomination has prompted objections from holders of copyrights in musical …

JUDGE DISMISSES PETA'S 'MONKEY SELFIE' LAWSUIT
via Courthouse News Service by Nicholas Iovino on 1/29/16

Wikimedia, not a party to the lawsuit, has made the photographs available for free online, claiming that because an animal cannot own copyrights, the …
MASSACHUSETTS: RELATING A SOFTWARE COPYRIGHT INFRINGEMENT CLAIM BACK TO ITS SOURCE
via National Law Review by Scott Bertulli on 1/29/16

For the copyright infringement claims to be timely and survive summary judgment, they would have to relate back to the original complaint. (A claim ...

AND THE COPYRIGHT CHANGES KEEP COMING - SAFE HARBOUR, FAIR DEALING AND MORE
via Lexology by Daniella Phair on 1/29/16
URL: http://www.lexology.com/library/detail.aspx?g=fb177d3d-37e6-4d30-a68c-f43049edc952

If copyright lawyers hadn't already had a busy enough year in 2015 with the introduction of the Copyright Amendment (Online Infringement) Act 2015, ...

YOUTUBE WINS ANOTHER ROUND IN GERMAN COPYRIGHT TUSSLE
via Fortune by David Meyer on 1/28/16
URL: http://fortune.com/2016/01/28/youtube-german-copyright-tussle/

... and that the man in charge of the EU's upcoming copyright reforms, Günther Oettinger, is Germany's representative in the European Commission.

COPYRIGHT INFRINGEMENT ISSUES CONCERNING ADAPTATIONS OF COMPUTER SOFTWARE
via Lexology by Hsiu-Ru Chien & Esther Lin on 1/28/16
URL: http://www.lexology.com/library/detail.aspx?g=d9be6b13-e825-4dac-befa-32561001b078

12 issued by the Intellectual Property Court on December 3, 2015 concerning whether copyrights have been infringed due to adaptations of computer ...

THE SUPREME COURT'S TAKE ON KIRTSANG II WILL IMPACT ATTORNEYS' FEES DECISIONS IN COPYRIGHT MATTERS
via Lexology by Carol Anne Been et al. on 1/28/16
URL: http://www.lexology.com/library/detail.aspx?g=7f41e327-8682-44d1-8674-2f0f4781bd3a

John Wiley & Sons I, a dispute over gray-market copyrighted material ... be liable for copyright infringement, thereby reversing the Second Circuit Court ...
In the last week, copyright audits have been in the news. Several ... So in all of these cases, the user of the copyrighted material does not get a bill.

The Internet provides a rapid and widespread network for communicating information. This information may include copyrighted works being copied ...

Aaron Swartz wasn't cut out to be a criminal, a realization that came much too late. Swartz, Internet innovator and political activist, hanged himself in ...

A US Department of Commerce task force recommended Thursday that Congress alter the Copyright Act in a bid that likely would reduce financial damages for file sharing copyright scofflaws.

A California federal judge on Thursday temporarily tabled Google Inc.'s request for sanctions against Oracle Corp. and an Orrick Herrington & Sutcliffe LLP attorney who allegedly revealed Google's protected financial information, but the judge warned both sides to obey protective orders.
The crested macaque Naruto doesn't have standing under the Copyright Act, ruled U.S. District Judge William Orrick III.

A photojournalist sued CBS and one of its website operators on Saturday in New York federal court, accusing the network of copyright infringement for using his post-injury photographs of Jets quarterback Geno Smith without permission.

A sessions court in the city has granted anticipatory bail to three persons in connection with a copyright violation case. The accused ...

He won't impose sanctions for statements in open court, but Judge William Alsup said he'll rethink his decision if more sensitive information is exposed.

After feeling ripped off, Tony DeRosa-Grund stalked the studio in court. As this point, the result is a nightmare.
SORRY SLACKTIVISTS: THE MAN IS SHREDDING YOUR ROBO RESPONSES
via The Register by Andrew Orlowski on 1/29/16
URL: http://www.theregister.co.uk/2016/01/29/slacktivism_robo_responses_shredded/

The EU this week binned thousands of responses to a copyright consultation generated by a
Canadian lobbying group OpenMedia, a groupuscule ...

DOWNLOADED MUSIC CAUSING LEGAL HEADACHE FOR WEDDING PARTIES
via The Japan News on 1/31/16

Doing so is considered beyond private use of the music and in violation of the Copyright Law.
Since playing music on CDs is permitted at wedding ...

COPYRIGHT INFRINGERS MAY GET RELIEF FROM HUGE MONETARY DEMANDS
URL: http://blogs.findlaw.com/technologist/2016/01/copyright-infringers-may-get-relief-from-
huge-monetary-demands.html

The Internet Policy Task Force from the US Dept. of Commerce made a recommendation that
Congress should alter the Copyright Act in such a way to reduce overall money damages in
copyright disputes. The recommendation is not to do away with the $150,000 per violation rule;
however, the changes will......

MISSING METADATA-WHY WON'T BIG TECH USE TECH TO PROTECT COPYRIGHT?
via Vox Indie by Ellen Seidler on 1/31/2016
URL: http://voxindie.org/missing-metadata-why-doesnt-big-tech-use-tech-to-protect-copyright/

Respecting and Protecting Embedded Photo Metadata should be a priority The relationship
between the tech industry and content creators off all stripes has long been strained when it
comes to the issue of protecting copyright. Whether it's asking Google to do a better job
excluding search results that lead to pirated content, or demanding [...]

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February 2016

RICHARD PRINCE: KING OF APPROPRIATION
URL: http://www.fordhamiplj.org/2016/02/01/richard-prince-king-appropriation/

Richard Prince has been sued for copyright infringement by photographer Donald Graham who claims Prince knowingly reproduced a photograph of a Rastafarian, taken by Graham, without seeking his permission.
Graham filed the complaint in New York federal court on December 30th against Prince, Gagosian Gallery - where Prince's "New Portraits" exhibition ran between September and October 2014 - and Larry Gagosian, the gallery owner. Prince's "New Portraits" exhibition featured 37 inkjet canvas prints of a series of photos Prince pulled from Instagram.

PHOTOG HITS BUZZFEED WITH INFRINGEMENT SUIT OVER SANTANA PIC
URL: http://www.law360.com/ip/articles/752975

Entertainment and social news website BuzzFeed Inc. was hit with a lawsuit Friday in California federal court by a photographer who says the site used her copyrighted photo of guitarist Carlos Santana without authorization.

HOW ONLINE PIRACY HURTS EMERGING ARTISTS
via Forbes by Nelson Granados on 2/1/2016
URL: http://www.forbes.com/sites/nelsongranados/2016/02/01/how-online-piracy-hurts-emerging-artists/#2bc7c98d7fa2

Keith Kupferschmid, CEO of the Copyright Alliance, states: "Piracy arguably hurts independent creators who are struggling to make it - including ..."

2ND CIRC. WON'T REVIEW SANTA SONG COPYRIGHT DISPUTE
URL: http://www.law360.com/ip/articles/753076

The full Second Circuit on Friday rejected a bid by music publisher EMI to rethink a ruling that the publisher's rights to the classic holiday song "Santa Claus Is Comin' to Town" expire later this year, a decision that upheld an appeal by the heirs of songwriter John Frederick Coots.
SPORTS MEMORABILIA IP CLAIMS AREN'T COVERED, INSURERS SAY
URL: http://www.law360.com/ip/articles/753275

Two insurers have told a Wisconsin federal court that they are not liable to defend sports memorabilia retailers in a copyright suit brought by two professional sports photographers alleging the retailers sold collectibles with their photographs without permission, arguing that their policies only cover copyright in advertising suits.

NORTEL OVERSEAS UNITS CAN'T ESCAPE US SOFTWARE SUIT
URL: http://www.law360.com/ip/articles/753646

A Delaware bankruptcy judge on Monday refused to dismiss foreign units of Nortel Networks Inc. from a software copyright infringement and breach of contract dispute aimed at the defunct telecom's U.S. arm, rebuffing arguments that the court lacks jurisdiction.

NBA 2K' VIDEOGAME MAKER SUED FOR COPYRIGHT INFRINGEMENT OVER LEBRON JAMES' TATTOOS
via THR, Esq. by Eriq Gardner on 2/1/2016
URL: http://www.hollywoodreporter.com/thr-esq/nba-2k-videogame-maker-sued-861131

Take-Two Software is being sued for copyright infringement from a company that demanded more than $1.1 million for a license to tattoo designs.

LEBRON, KOBE TATTOOS IN VIDEO GAMES TRIGGER N.Y. COPYRIGHT SUIT
via BloombergBusiness by Erik Larson on 2/1/2016

Take Two Interactive Software Inc.'s depiction of tattoos on the likes of LeBron James and Kobe Bryant in its National Basketball Association video ...

2ND CIRC. POISED TO SHIP TURTLES-SIRIUS ROW TO TOP NY COURT
URL: http://www.law360.com/ip/articles/753966

The Second Circuit appeared set Tuesday to ask New York State's top court for help sorting out a New York federal judge's "unprecedented" move to grant owners of pre-1972 recordings exclusive performance rights under state common law in a $100 million proposed class action brought by The Turtles' corporate shell against Sirius XM.
DEVELOPER SEEKS $10M FOR SOFTWARE COPYRIGHT HE SAYS IS HIS
URL: http://www.law360.com/ip/articles/753781

A South Korean native who says he was threatened with losing his legal status if he kept complaining about having been promised the copyright for a software program he developed sued the program's owners Monday in California federal court, seeking at least $10 million.

MONKEY SELFIES AND EQUINE PHOTOBOMBING: WHO OWNS ANIMAL PHOTOGRAPHY?
via The Guardian by Homa Khaleeli on 2/2/2016

Media organisations argued they could reprint the resulting photographs for free because the copyright was owned by the monkey, not Slater.

BIKRAM ASKS 9TH CIRC. TO PAUSE COPYRIGHT CASE FOR APPEAL
URL: http://www.law360.com/ip/articles/753657

Bikram Choudhury urged the Ninth Circuit on Friday to halt its judgment that the guru's hot yoga program cannot be copyrighted so he can petition the Supreme Court to hear the case, saying that the high court should define choreography and address the circuit split in this area of copyright law.

EXPERTS: TRUMP CAN PLAY ADELE'S SAD SONGS AS MUCH AS HE'D LIKE
via U.S. News by Steven Nelson on 2/2/2016

Experts in copyright law say most venues where Trump holds rallies already have a blanket performing license, through which event-hosting or ...
JAY Z DODGES A REVIVAL OF 'BIG PIMPIN' COPYRIGHT FIGHT
via THR, Esq. by Eriq Gardner on 2/2/2016
URL: http://www.hollywoodreporter.com/thr-esq/jay-z-dodges-a-revival-861449

Following up on a trial, a judge dismisses a lawsuit from an Egyptian composer's heir.

NBA 2K16' STUDIO SUED OVER LEBRON JAMES AND KOBE BRYANT'S COPYRIGHTED TATTOOS
via Forbes by Paul Tassi on 2/2/2016
URL: http://www.forbes.com/sites/insertcoin/2016/02/02/nba-2k16-studio-sued-over-lebron-james-and-kobe-bryants-copyrighted-tattoos/#617c96396f1e

Take-Two is facing a lawsuit over its NBA 2K series from a company who owns the rights to tattoo designs that are inked on NBA players and make an ...

JAY Z PUTS 'BIG PIMPIN' IP ROW TO BED WITH MERITS RULING
URL: http://www.law360.com/ip/articles/754108

Jay Z scored a big win Tuesday when a California federal judge entered a final judgment that a suit accusing the rapper of copyright infringement with his hit song "Big Pimpin" -- already tossed for lack of standing -- also failed on the merits.

MALIBU MEDIA TARGET ASKS HIGH COURT FOR 2ND SHOT AT FEES
via Law360: Intellectual Property by Bill Donahue on 2/2/2016
URL: http://www.law360.com/ip/articles/753944

Citing the U.S. Supreme Court's recent decision to take on the issue of fee-shifting under the Copyright Act, a Florida man who was sued by porn studio Malibu Media LLC is urging the high court to reconsider his effort to force the studio to pay his legal fees.

JAY Z DODGES A REVIVAL OF 'BIG PIMPIN' SAMPLE BATTLE
via Billboard by Eriq Gardner on 2/2/2016

Jay Z departs United States District Court after testifying in a copyright ... After almost a decade in court, Jay Z has finally won dismissal of a copyright ...
SARAH JEONG PITCHES COPYRIGHT CONSPIRACY THRILLER
via The Illusion of More by David Newhoff on 2/3/2016
URL: http://illusionofmore.com/sarah-jeong-pitches-copyright-conspiracy-thriller/

In what sounds like an homage to Tom Clancy, Sarah Jeong, a contributing editor to Motherboard, presents us with a cautionary action thriller in which the Chinese government could theoretically disappear one of the most famous and politically significant photographs ...

AUTHORS GUILD GETS SUPPORT IN GOOGLE CASE
via Publishers Weekly by Andrew Albanese on 2/3/2016
URL: http://www.publishersweekly.com/pw/by-topic/digital/copyright/article/69314-authors-guild-gets-support-in-google-case.html

In its brief, lawyers for the Copyright Clearance Center argue that, if left to stand, the Google decision "will likely spawn myriad other unauthorized, ...

AUTHORS GUILD V GOOGLE: THE FAIR USE STANDARD TRANSFORMED
via Copyright Alliance by Terry Hart on 2/3/2016
URL: https://copyrightalliance.org/2016/02/authors_guild_v_google_fair_use_standard_transformed

The fair use doctrine has fundamentally transformed in recent years. Over twenty years ago, Judge Pierre Leval (then a federal judge in the Southern District Court of New York), wrote that "courts had failed to fashion a set of governing principles or values" for the doctrine of fair use. Though the Copyright Act provides a set of four factors that courts should consider when determining whether a particular use of an existing copyrighted work is fair (17 USC § 107), Leval argued that the statute doesn't tell courts how to apply the factors.

ATTACKING THE NOTICE-AND-STAYDOWN STRAW MAN
via CPIP by Devlin Hartline on 2/3/2016
URL: http://cpip.gmu.edu/2016/02/03/attacking-the-notice-and-staydown-straw-man/

Ever since the U.S. Copyright Office announced its study of the DMCA last December, the notice-and-staydown issue has become a particularly hot topic. Critics of notice-and-staydown have turned up the volume, repeating the same vague assertions about freedom, censorship, innovation, and creativity that routinely pop up whenever someone proposes practical solutions to curb online infringement. ... Continue reading Attacking the Notice-and-Staydown Straw Man ?
TAKE-TWO INTERACTIVE ACCUSED OF INFRINGING TATTOOS IN NBA 2K VIDEO GAMES
via Ars Technica by David Kravets on 2/3/2016

Lawsuit says game maker rejected licensing demand of $1.1 million.

NBC SAYS COPYRIGHT ACT PREEMPTS BAIUL’S STATE REMAND BID
URL: http://www.law360.com/ip/articles/755108

NBCUniversal asked a New York federal court Wednesday not to send its long-running dispute with Olympic gold medalist Oksana Baiul over royalties from a 1994 TV special back to state court, claiming the figure skating champion's allegations are state-level window dressing on a textbook federal copyright case.

SPORTS LEAGUES CHEER ON NETWORKS IN 9TH CIRC. STREAMING SUIT
URL: http://www.law360.com/ip/articles/755238

Top professional baseball, football and golf leagues told the Ninth Circuit on Wednesday that online streaming services should not qualify for compulsory copyright licenses for broadcast television content, saying as amici to broadcasters that automatic licensing would upend the televised sports business.

WHY THE NFL CAN'T CONTROL THE ONLY BROADCAST OF SUPER BOWL I
via Fortune by Jeff John Roberts on 2/4/2016
URL: http://fortune.com/2016/02/04/superbowl-copyright/

Today, anyone who has watched a sports game will be familiar with a barrage of reminders that this "telecast is copyrighted," even though such ...

AN ALTERNATE HISTORY OF THE WEB & COPYRIGHT LAW
via Written Description by Lisa Larrimore Outllette on 2/4/2016
URL: http://writtendescription.blogspot.com/2016/02/an-alternate-history-of-web-copyright.html

I've been enjoying Walter Isaacson's The Innovators, a history of computers and the Internet.
ENDLESS FLOTILLAS AND SAFE HARBOURS: PERSPECTIVES ON ISP AND HOST LIABILITY
via Lexology by Vishnumohan Rethinam on 2/5/2016
URL: https://www.lexology.com/library/detail.aspx?g=467560d3-2934-470a-84cb-2f0e0f8e2f80

The plaintiff alleged copyright infringement, including contributory ... a website that allowed access to copyrighted content without authorisation.

THE KING AND HIS (TATTOO ARTIST'S) COPYRIGHT
via Levology by Nathan Mattock & Kyra Edwards on 2/5/2016

We're not talking about a boring old monarch - we're talking the King: LeBron James, the 2nd GOAT* and the Cleveland Cavaliers' best hope of ...

SORRY SLACKTIVISTS: THE MAN IS SHREDDING YOUR ROBO RESPONSES
via The Register by Andrew Orlowski on 1/29/16
URL: http://www.theregister.co.uk/2016/01/29/slacktivism_robo_responses_shredded/

Years ago, we were told that mass democratic participation was was going to be revolutionised by the web.

PAYPAL BLOCKS VPN, SMARTDNS PROVIDER'S PAYMENTS OVER COPYRIGHT CONCERNS
via Ars Technica by Glyn Moody on 2/5/2016
URL: http://arstechnica.com/tech-policy/2016/02/paypal-blocks-vpn-smartdns-providers-payments-over-copyright-violations/

PayPal cuts off UnoTelly, which touts geo-blocking circumvention to customers.

ON THE SERBIAN PROPOSAL TO ABOLISH PHOTOGRAPHY COPYRIGHT
via The Illusion of More by David Newhoff on 2/5/2016
URL: http://illusionofmore.com/serbian-proposal-abolish-photography-copyright/

Embed from Getty Images Last week, the Serbian Parliament unanimously voted down a proposal to abolish copyright protection in that country for what it called "routinely made" digital photography. In fact, according to the Facebook page Protect Photographers Copyright, even ...
In a notable ruling last month, a California district court ruled that the HTML underlying a custom search results page of an online advertising creation platform is copyrightable.

Tattoo artists who inked up LeBron James and other NBA superstars are suing the company behind the popular "NBA 2K" basketball video games for copyright infringement for accurately depicting the stars' tattoos in the game. It's a novel claim — and one experts say is almost certain to fail.

The long-running copyright dispute between the Authors Guild and Google could be reaching a final chapter in coming weeks as both sides wait to see if the Supreme Court takes up the case.
ANTHRAX SUED FOR COPYRIGHT INFRINGEMENT OVER HANUKKAH SWEATER DESIGN
via Brooklyn Vegan by Rob Sperry-Fromm on 2/8/16
URL: http://www.brooklynvegan.com/archives/2016/02/anthrax_sued_fo.html

We all know that metal-themed holiday sweaters are the best gifts one can give. But in the case of the above Anthrax sweater, which the metal band ...

WHY THE AUTHORS GUILD IS STILL WRONG ABOUT GOOGLE'S BOOK SCANNING
via Fortune by Mathew Ingram on 2/8/16
URL: http://fortune.com/2016/02/08/authors-guild-google/

Google's book-scanning project is one of the longest-running copyright ... More fundamentally, it threatens to undermine protection of copyrighted ...

FAMOUS AUTHORS FILE SUPREME COURT BRIEF IN GOOGLE BOOK SCANNING CASE
via FindLaw News for Legal Professionals by Chrostopher Coble, Esq. on 2/8/2016

Several famous authors filed a brief with the Supreme Court, asking it to hear a lawsuit over Google digital book library. Malcolm Gladwell, Margaret Atwood, Yann Martel, Steven Sondheim and others lent their names to the brief, contending Google is guilty of "massive copyright infringement. The Supreme Court has......

WARNER MUSIC PAYS $14 MILLION TO END 'HAPPY BIRTHDAY' COPYRIGHT LAWSUIT
via THR, Esq. by Eriq Gardner on 2/8/2016
URL: http://www.hollywoodreporter.com/thr-esq/warner-music-pays-14-million-863120

The music publisher will also not stand in the way for a judge to declare the song to be in the public domain.

HAPPY BIRTHDAY COPYRIGHT SUIT SETTLES FOR $14 MILLION
via Law.com - Newswire by Ross Todd on 2/8/2016
URL: http://www.law.com/sites/articles/2016/02/09/happy-birthday-copyright-suit-settles-for-14-million/

Song would enter the public domain under terms of deal reached by Warner/Chappell Music and its lawyers at Munger, Tolles & Olson.
COPYRIGHT GUIDE FOR STREET ART AND 3D PRINTING
via ArtsHub by Gina Fairley on 2/9/16

The Australian Copyright Council (ACC) is an invaluable resource for creatives. They have published a suite of free papers to help navigate the murky ...

SHKRELI HIT WITH COPYRIGHT SUIT OVER WU-TANG ALBUM ART
URL: http://www.law360.com/ip/articles/756895

Indicted pharmaceutical exec Martin Shkreli was hit with a copyright infringement lawsuit in Manhattan federal court Tuesday over illustrations contained in his $2 million one-of-a-kind Wu-Tang Clan album.

MPAA FORGES VOLUNTARY ANTI-PIRACY AGREEMENT WITH DONUTS
via The Illusion of More by David Newhoff on 2/9/2016

We’re about to start seeing a lot more diversity in web names. With its slogan “welcome to the not com revolution”, the Bellevue, Washington based Donuts is the largest provider of new domain name registrations with unique extensions that offer …

DISNEY GETS 'IRON MAN' ARMOR CASE TOSSED
URL: http://www.law360.com/ip/articles/756984

A Massachusetts federal judge tossed out on Tuesday a lawsuit claiming Walt Disney's Marvel Comics stole the futuristic suit of armor seen in the blockbuster “Iron Man” movies from two ex-Marvel artists, saying she had no jurisdiction to hear the case.

WARNER PAYS $14 MILLION IN 'HAPPY BIRTHDAY' SETTLEMENT
URL: http://www.law360.com/ip/articles/756978

Warner/Chappell Music Inc. on Tuesday disclosed the terms of its settlement to end class action litigation over its claim of ownership of "Happy Birthday to You" — an agreement that will include a $14 million payment and an acknowledgment from all parties that the song is in the public domain

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DETAILS OF ‘HAPPY BIRTHDAY’ COPYRIGHT SETTLEMENT REVEALED
via NYT > Media by Ben Sisario on 2/9/2016

Papers filed in federal court show that Warner Music Group agreed to pay $14 million to settle claims over the song “Happy Birthday to You.”

MPAA & DOMAIN REGISTRAR ‘DONUTS’ ANNOUNCE PARTNERSHIP TO REDUCE ONLINE PIRACY
via Vox Indie by Ellen Seidler on 2/9/2016
URL: http://voxindie.org/mpaa-domain-registrar-donuts-announce-partnership-to-reduce-online-piracy/

Another ally joins the war against online pirates The battle against online piracy has been fought on many fronts, and today came news that another had opened with the announcement that the Motion Picture Association of America (MPAA) and Donuts, a the largest registrar for the new domain extensions have come to an agreement to thwart online piracy. The development is good […]

WU-TANG CLAN'S $2 MILLION ALBUM A TARGET IN COPYRIGHT LAWSUIT
via THR, Esq. by Eriq Gardner on 2/9/2016

Drawings of Raekwon, Ol’ Dirty Bastard and Inspecta Deck were allegedly reproduced in what landed in the hands of Martin Shkreli.

MARTIN SHKRELI FACES COPYRIGHT SUIT INVOLVING WU-TANG ALBUM
via Law Blog by Jacob Gershman on 2/9/2016

As he battles charges of securities fraud, former drug executive and Wu-Tang Clan patron Martin Shkreli may also have to defend himself against a federal copyright lawsuit.
MARTIN SHKRELI’S TROUBLES DEEPEN—FROM ALLEGATIONS OF FRAUD TO IP INFRINGEMENT
via Ars Technica by David Kravets on 2/9/2016

Plot thickens for former pharma CEO, now accused of copyright violations.

JUDGE KNOCKS OUT 'IRON MAN' COPYRIGHT LAWSUIT
via THR, Esq. by Eriq Gardner on 2/9/2016
URL: http://www.hollywoodreporter.com/thr-esq/judge-knocks-iron-man-copyright-863525

The complaint alleged that the superhero's body armor was derived from another comic book.

COPYRIGHT AND SOCIAL MEDIA: A PLACE FOR COMMENT, SHARING, AND FAIR USE?
via Lexology by Maryanne Stanganelli on 2/9/16
URL: http://www.lexology.com/library/detail.aspx?g=c6d38889-37b0-4d4e-bc3f-37e78ee3d798

In the coming days, a trial is set to begin in the Southern District of New York in the case of North Jersey Media Group Inc. v. Jeanine Pirro. The case ...

MUSIC COPYRIGHT 101: A BRIEF RUNDOWN OF LEGAL STATUS IN THE UNITED STATES

“The world of music rights is divided into two major segments: compositions and sound recordings,” said Kenneth Steventhal, partner, King & Spalding, San Francisco, who opened a panel at Yale Law School last week with a baseline understanding of music copyright. Steventhal gave a textbook rundown of the complicated status of music copyright that puts […]

DOES COPYRIGHT PROTECT DATA FILE FORMATS?
via Lexology by Toby Headdon on 2/9/16
URL: http://www.lexology.com/library/detail.aspx?g=b5ab25ca-872b-43bf-8040-a5e9e3e94e67

Typically our updates relate to new developments. This update is an exception and we have prepared it because it addresses a question which we are ...
ABAJournals.com
http://apps.americanbar.org/dch/committee.cfm?com=PT030000

SHERRILYN KENYON SUES CASSANDRA CLARE FOR ‘WILFULLY COPYING’ HER NOVELS
via The Guardian by Alison Flood on 2/10/16
URL: http://www.theguardian.com/books/2016/feb/10/sherrilyn-kenyon-sues-cassandra-clare-for-wilfully-copying-her-novels

Filed on 5 February, the lawsuit – which alleges copyright and trademark infringement and is asking for damages, lost profits and an end to ...

IS VPN USE COPYRIGHT INFRINGEMENT? NOT SO FAST, LAWYERS SAY
via Bloomberg BNA by Peter Leung on 2/3/16
URL: http://www.bna.com/vpn-copyright-infringement-n57982067184/

Furthermore, while some countries have laws barring the circumvention of technological protection measures that limit access to copyrighted works, ...

“HAPPY BIRTHDAY” IS PUBLIC DOMAIN, FORMER OWNER WARNER/CHAPELL TO PAY $14M
via Ars Technica by Joe Mullin on 2/10/2016
URL: http://arstechnica.com/tech-policy/2016/02/happy-birthday-is-public-domain-former-owner-warnerchapell-to-pay-14m/

Winning lawyer says more bogus copyrights may come under legal attack.

PORN CO. MALIBU MEDIA HIT WITH RARE DEFEAT
via Law360: Intellectual Property by Bill Donahue on 2/10/2016
URL: http://www.law360.com/ip/articles/758003

An Illinois federal judge has handed Malibu Media a rare summary judgment defeat, dismissing a case in which the litigious porn studio accused opposing counsel of working in tandem with “a fanatical Internet hate group.”

WARNER BROS. AGAIN BEATS SUPERMAN IP SUIT IN 9TH CIRC.
URL: http://www.law360.com/ip/articles/757942

The Ninth Circuit on Wednesday refused a request by Superman co-creator Jerome Siegel’s daughter to revive her suit seeking control of certain Superman copyrights, finding Siegel’s family had transferred its rights to Warner Bros. Entertainment Inc. and subsidiary DC Comics Inc.
PRESIDENT OBAMA SENDS TWO WIPO COPYRIGHT TREATIES TO US SENATE FOR RATIFICATION
URL: http://www.ip-watch.org/2016/02/10/president-obama-sends-two-copyright-treaties-to-us-senate-for-ratification/

Today, United States President Barack Obama sent two signed multilateral copyright treaties negotiated at the World Intellectual Property Organization to the US Senate for ratification.

WARNER BROS. 'SUPERMAN' RIGHTS CONFIRMED BY APPEALS COURT
via THR, Esq. by Eriq Gardner on 2/10/2016
URL: http://www.hollywoodreporter.com/thr-esq/warner-bros-superman-rights-confirmed-864026

The 9th Circuit confirms that Superman co-creator Jerry Siegel's widow transferred them in 2001.

'QUEEN OF THE DESERT' PRODUCERS FILE COPYRIGHT LAWSUIT AGAINST INTERNET PIRATES
via THR, Esq. by Ashley Cullins on 2/10/2016

In the latest push by Hollywood to clamp down on pirating, the production company behind the period film (starring James Franco, Nicole Kidman and Robert Pattinson) identifies seven IP addresses that distributed the movie via file-sharing site BitTorrent.

COPYRIGHT PROTECTION IN CANADA FOR ARTISTS
via Lexology by Paul E. Bain on 2/11/16
URL: http://www.lexology.com/library/detail.aspx?g=ce37bdf4-edb3-4d26-8c3f-2cddc6081a61

In Canada, “copyright” refers to the bundle of rights conferred by the Copyright Act (the Act) on the copyright owner and author of a work. The owner of ...

TRADEMARK AND COPYRIGHT ISSUES WITH THE SUPER BOWL
via Inside Counsel by Amanda Ciccatelli on 2/11/16

Every year around this time, every business in America tried to capitalize on the Super Bowl. But most of them aren't using the words Super Bowl to do ...
FOX, DISH SETTLE COPYRIGHT FIGHT OVER AD-SKIPPING DVR
URL: http://www.law360.com/ip/articles/758147

Dish Network and Fox have reached a settlement to end their four-year copyright battle over the satcaster’s ad-skipping, place-shifting Hopper DVR, the companies said Thursday.

BAIUL KEEPS FIGHTING NY REMAND, SAYS COPYRIGHT NOT AN ISSUE
URL: http://www.law360.com/ip/articles/758083

Olympic gold medalist Oksana Baiul again urged a New York federal court on Wednesday to send her suit against NBCUniversal over royalties from a 1994 TV special back to state court, saying her claims only look to recuperate compensation she is owed, and have no basis in copyright law.

IN DEAL WITH FOX, DISH AGREES TO DISABLE AD-SKIPPING FOR 7 DAYS AFTER SHOWS FIRST AIR
via THR, Esq. by Eriq Gardner on 2/11/2016
URL: http://www.hollywoodreporter.com/thr-esq/deal-fox-dish-agrees-disable-864208

A four-year fight over AutoHop finally comes to an end.

PHARRELL, THICKE SLAM $3.5M 'BLURRED LINES' ATTY FEES BID
URL: http://www.law360.com/ip/articles/758264

Pharrell Williams and Robin Thicke on Wednesday blasted a bid by the family of Marvin Gaye for $3.5 million in legal fees following a jury verdict finding their smash hit “Blurred Lines” infringed the copyrights for Gaye’s “Got to Give It Up,” calling the fees request “exorbitant.”

THE INTERNET'S TOP DOG RATER KEEPS DISAPPEARING FROM TWITTER
via The Washington Post by Abby Ohlheiser on 2/11/16

Thanks to multiple, likely bogus, copyright claims against @dog_rates, ... for a link to the original, copyrighted work that has been allegedly copied.
ONLINE LEGAL PUBLISHERS SQUABBLE OVER THE RIGHT TO COPYRIGHT THE LAW
via Ars Technica by David Kravetz on 2/11/2016
URL: http://arstechnica.com/tech-policy/2016/02/online-legal-publishers-squabble-over-the-right-to-copyright-the-law/

Do private online publishers own the law, or does it belong to the people?

DISH TO DISABLE DVR AD-SKIP FOR 7 DAYS AFTER BROADCAST TO RESOLVE FOX SUIT
via Ars Technica by Joe Mullin on 2/11/2016
URL: http://arstechnica.com/tech-policy/2016/02/dish-to-disable-dvr-ad-skip-for-7-days-after-broadcast-to-resolve-fox-suit/

No precedent on consumers' right to stream content they already paid for.

ROBIN THICKE'S ATTORNEY ARGUES $3.5M FEE AWARD IN "BLURRED LINES" CASE WOULD SET BAD PRECEDENT
via THR, Esq. by Ashley Cullins on 2/11/2016
URL: http://www.hollywoodreporter.com/thr-esq/robin-thickes-attorney-argues-35m-864382

After losing at trial in March, the attorney for Pharrell Williams and Robin Thicke says they shouldn’t be stuck with the tab for the lawyers and experts hired by Marvin Gaye’s heirs.

FSU LIBRARIES TO HOST INSTITUTE ON COPYRIGHT IN HIGHER EDUCATION
via FSU by Devin Galetta on 2/11/16

Florida State University Libraries will host a one-day Institute on Copyright in Higher Education — a free professional development opportunity for ...

LIVE NATION WILLFULLY STOLE RUN-DMC PHOTOS, 9TH CIRC. TOLD
URL: http://www.law360.com/ip/articles/756019

Photographer Glen Friedman told the Ninth Circuit on Thursday that a district court erred in determining Live Nation Merchandise didn’t act willfully when it infringed his copyright by selling merchandise featuring his images of hip-hop group Run-DMC, saying the burden of proof shouldn’t have been his.
NFL, AP URGE JUDGE TO SHUTTER PHOTOGS' SUIT FOR GOOD
URL: http://www.law360.com/ip/articles/758463

The National Football League and The Associated Press urged a New York federal judge Thursday to block the second pass at a lawsuit by a group of professional football photographers alleging copyright and antitrust violations over the use of their work.

3D PRINTING INDUSTRY WANTS ONE COPYRIGHT TEST, NOT 10
via Bloomberg BNA by Alexis Kramer on 2/11/16
URL: http://www.bna.com/3d-printing-industry-b57982067264/

Ten different tests exist for separating an object's creative elements, which can be protected by copyright, from its functional elements, which ...

US CONGRESS PASSES CUSTOMS BILL WITH STRONG IP ENFORCEMENT PROVISIONS

The United States Congress today passed the Trade Facilitation and Trade Enforcement Act, establishing clearer rules on customs officials' work to stop infringing goods from entering the US. The Act creates a new National IP Coordination Center for coordinating investigations, training and other activities.

ESPN ASKS COURT TO DETERMINE THE FAIR RATE FOR LICENSING MUSIC
via THR, Esq. by Eriq Gardner on 2/11/2016

The sports network asserts BMI isn't being reasonable.

EFF REACTS TO MPAA-DONUT ANTI-PIRACY PACT WITH PREDICTABLE HYPERBOLE AND HISTRIONICS
via Vox Indie by Ellen Seidler on 2/11/2016

Once again, EFF pulls out the piracy as "free speech" mantra
WHAT EXACTLY DOES THE EFF WANT?
via The Illusion of More by David Newhoff on 2/12/2016
URL: http://illusionofmore.com/what-exactly-does-the-eff-want/

As stated in my post announcing a voluntary agreement between MPAA and domain-name service Donuts, both rights holders and digital rights proponents should applaud this kind of B2B approach to mitigating online piracy. That doesn’t mean I thought the latter …

SAG-AFTRA APPLAUDS WIPO BEIJING TREATY ON PERFORMERS’ RIGHTS
via Deadline by David Robb on 2/10/16
URL: http://deadline.com/2016/02/wipo-beijing-treaty-sag-aftra-support-obama-1201700467/

SAG-AFTRA has issued a strong statement of support for the World Intellectual Property Organization (WIPO) Beijing Treaty on Audiovisual Performances that President Obama sent to the Senate today for approval.

KACEY MUSGRAVES PUTS HAMMER DOWN ON STOLEN WORK: ‘THINK BEFORE YOU BUY’
via Taste of Country by Annie Reuter on 2/8/16
URL: http://tasteofcountry.com/kacey-musgraves-lyrics-stolen-intellectual-property/

Kacey Musgraves does not shy away from voicing her opinion on topics that matter deeply to her.

EMBATTLED COPYRIGHT LAWYER USES DMCA TO REMOVE ARTICLE ABOUT HIMSELF
via Ars Technica by Joe Mullin on 2/12/2016
URL: http://arstechnica.com/tech-policy/2016/02/embattled-copyright-lawyer-uses-dmca-to-remove-article-about-himself/

Marc Randazza tells Wordpress that the unflattering story "is not fair use."

COPYRIGHT PROTECTION IN CANADA FOR ARTISTS
URL: http://www.natlawreview.com/article/copyright-protection-canada-artists

In Canada, “copyright” refers to the bundle of rights conferred by the Copyright Act (the Act) on the copyright owner and author of a work.
FCC SET-TOP PROPOSAL ENDANGERS COPYRIGHT, GROUPS SAY
URL: http://www.law360.com/ip/articles/758908

A group of pay-TV proponents warned Federal Communications Commission Chairman Tom Wheeler that his set-top box proposal poses serious copyright concerns, according to a filing on Thursday that described the meeting.

I PREVAILED, NOW GIVE ME MY ATTORNEYS’ FEES
via Intellectual Property, Patent, Trademark & Copyright News by Tonya M. Gray et al. on 2/12/2016
URL: http://www.natlawreview.com/article/i-prevailed-now-give-me-my-attorneys-fees

The U.S. Supreme Court recently granted certiorari in Kirtsaeng v. John Wiley & Sons, Inc. in order, once again, to review the proper standard that district courts should follow for awarding attorneys’ fees to prevailing parties in copyright infringement actions.

RZA RESPONDS TO ARTIST'S "ONCE UPON A TIME IN SHAOLIN" COPYRIGHT INFRINGEMENT CLAIMS
via HopHopDX by Cherise Johnson on 2/13/16

RZA responds to artist Jason Koza's copyright infringement claims of his artwork being featured in the one-liner notes of Wu-Tang Clan's album Once ...

PIRATES IN YOUR NEIGHBOURHOOD: HOW NEW ONLINE COPYRIGHT INFRINGEMENT LAWS ARE AFFECTING CANADIANS ONE YEAR LATER
via Financial Post by Claire Brownell on 2/12/16

Copyright holders, of course, have enthusiastically participated, as the thousands of notices TekSavvy has to process daily demonstrate.
The Supreme Court held that copyright users must consent to be bound by the terms of such licences—the Copyright Board (the “Board”) cannot ...

While the French Senate continues to debate whether (and to what extent) the private copying exception and corresponding levy should be extended to the cloud (and in particular network PVRs), there have been two interesting amendments introduced intended to strengthen the CNC's ability to act against copyright infringement.

We've taken advantage of past Presidents Days to recount George Washington's role in the history of U.S. Copyright law, specifically the birth of fair ...

One of the things I love about teaching and writing in intellectual property is that disputes often don't fall along traditional party lines.

Fox News Network has reached a settlement to avoid a jury trial over whether the cable news giant infringed copyrights by posting a famous photo of firemen at the World Trade Center on 9/11 to a Facebook page.
BALANCING COPYRIGHT OWNERS' RIGHTS WITH ISP IMMUNITIES
URL: http://www.law360.com/ip/articles/758164

A Virginia federal court's recent decision in BMG v. Cox is significant because it provides guidance on the type of actions an Internet service provider needs to take — or not take — in order to satisfy the termination policy condition under the Digital Millennium Copyright Act safe harbor, say Ieuan Mahony and Samuel Taylor of Holland & Knight LLP.

2ND CIRC. UPHOLDS SANCTIONS AGAINST TV STREAMER FILMON
via Law360: Intellectual Property by Bill Donahue on 2/16/2016
URL: http://www.law360.com/ip/articles/759419

The Second Circuit affirmed sanctions Tuesday against television streaming service FilmOn, ruling the Aereo-like service was rightly held in contempt for continuing to operate after the U.S. Supreme Court shut down Aereo.

APPEALS COURT UPHOLDS SANCTIONS AGAINST TV STREAMER
via THR, Esq. by Eriq Gardner on 2/16/2016

FilmOn flouted an injunction order after the Supreme Court ruled against Aereo.

SPOTIFY TRIES TO DUCK MUSICIAN'S $150M IP INFRINGEMENT SUIT
URL: http://www.law360.com/ip/articles/759261

Spotify USA Inc. urged a California federal judge Friday to toss an independent rock musician's $150 million putative class action accusing the music streaming service of copyright infringement, saying the court lacks jurisdiction because Spotify is headquartered in New York.

MLB USED WILLIE NELSON IMAGE WITHOUT APPROVAL, PHOTOG SAYS
URL: http://www.law360.com/ip/articles/759427

A professional photographer slapped the media arms of Major League Baseball and the Boston Red Sox with a copyright infringement suit in New York federal court on Sunday, saying they used his photograph of musician Willie Nelson without permission on the blog of a minor league affiliate.
On November 5, the Obama Administration released the full text of the Trans-Pacific Partnership agreement to the public. This twelve-nation trade agreement has been under negotiation for years, with most of the specific provisions kept from the public eye. The completed deal now faces an uphill battle obtaining Congressional approval in the United States. Included […]

Google Books is an online service that allows users to search for specific words in over 20 million books and view short excerpts from those books without the author’s permission. The U.S. Court of Appeals for the Second Circuit held on October 16 that this search function is protected under the doctrine of fair use, […]

Bikram Choudhury, a Hollywood yoga instructor, claimed that another yoga studio, Evolation Yoga, had infringed on his copyright to a sequence of yoga moves. Choudhury’s “hot yoga” classes were conducted in a room heated up to 105 degrees, and he had been charging a licensing fee and making specific requirements to those wishing to use […]

The crux of Spotify’s filing is that a class action suit over copyright violations requires such specific knowledge of each copyright infringement, much ...
HOW MAJOR CHINESE BANKS HELP SELL KNOCK-OFFS
via Technology : NPR by Aarti Shahani on 2/16/2016
URL: http://www.npr.org/sections/alltechconsidered/2016/02/16/466340567/how-major-chinese-banks-help-sell-knock-offs

Leading banks in China are facilitating the sale of counterfeit handbags, clothes and other knock-off goods online, by hosting bank accounts for bogus manufacturers.

APPEALS COURT BACKS CONTEMPT ORDER AGAINST FILMON IN COPYRIGHT CASE
via Reuters on 2/16/2016
URL: http://www.reuters.com/article/ip-filmon-contempt-idUSL2N15V28V

A federal appeals court on Tuesday upheld a contempt order against online television service FilmOn for continuing to operate after a 2014 U.S. ...

IP CONFERENCE AT JOHN MARSHALL
via IP and IT Conferences on 2/17/2016
URL: http://madisonian.net/conferences/2016/02/17/ip-conference-at-john-marshall/

How are viral videos and other social media phenomena treated under copyright, false endorsement and right of publicity law? What are the best practices for trademark surveys in the digital era? How can patent owners thwart challenges from third parties …

PHOENIX CENTER RESPONDS TO SINGAPORE FAIR USE STUDY
via The Illusion of More by David Newhoff on 2/17/2016
URL: http://illusionofmore.com/phoenix-center-responds-to-singapore-fair-use-study/

In 2012, a report was published in the online journal LAWS entitled A Counterfactual Impact Analysis of Fair Use Policy on Copyright Related Industries in Singapore. I know. Sounds like a real page-turner for the general reader, right? To be …

JUSTIN TIMBERLAKE, WILL.I.AM FACING COPYRIGHT SUIT OVER "DAMN GIRL"
via THR, Esq. by Ashley Cullins on 2/17/2016

The heir of a Grammy-winning disco artist claims Timberlake's hit "Damn Girl" copied its hook, rhythm, harmony and melody from a 1969 song.
JUSTIN TIMBERLAKE, WILL.I.AM FACING COPYRIGHT SUIT OVER 'DAMN GIRL'
via Billboard by Ashley Cullins on 2/17/2016

He's facing a copyright suit over his hit "Damn Girl" from the sister of disco artist Perry Kibble that claims the hook, rhythm, harmony and melody in ...

UPDATE: SONY DROPS COPYRIGHT CLAIM OVER HARVARD’S COPYRIGHT LAW LECTURE

A YouTube video that is part of a Harvard University online course on copyright law is once again accessible to students after Sony Music Entertainment unblocked it and released its copyright claim.

FOXTEL MOVES TO BLOCK PIRACY WEBSITES
via ZDNet by Corinne Reichert on 2/17/2016

The Copyright Amendment (Online Infringement) Act 2015 allows rights holders, such as Foxtel, to obtain a court order to block websites hosted ...

FEELING THE BURN
via Lexology by Kristen McCallion & John P. McCormick on 2/18/2016
URL: http://www.lexology.com/library/detail.aspx?g=5d12e10a-772d-426c-90c2-a0ab575118d1

Bikram yoga poses are not copyrightable says the Ninth Circuit Court of Appeals. Copyright owners need to act, says Kristen McCallion and John ...

PHOTOGRAPHER DENNIS MORRIS THREATENS ELIZABETH PEYTON WITH COPYRIGHT INFRINGEMENT COMPLAINT
via Artnet News by Brian Boucher on 2/18/2016
URL: https://news.artnet.com/art-world/dennis-morris-elizabeth-peyton-copyright-infringement-429743

A 1994 drawing of punk singer John Lydon is at the center of a brewing battle between photographer Dennis Morris and New York artist Elizabeth ...
COPYRIGHT INFRINGEMENT: MUSICIAN WANTS CHARGE AGAINST MTN DROPPED, NCC SAYS NO
via Premium Times on 2/18/2016

The Nigerian Copyright Commission (NCC), in 2015, filed the two-count-charge against MTN and Moolman, sequel to a petition filed by Baba 2010.

JUSTIN TIMBERLAKE, WILL.I.AM ACCUSED OF COPYING 1969 SONG
via Law360: Intellectual Property by Bill Donahue on 2/18/2016
URL: http://www.law360.com/ip/articles/760291

Justin Timberlake and Will.i.am were hit Wednesday with a copyright infringement suit claiming they ripped off key portions of their 2006 hit “Damn Girl” from a dead disco star’s obscure 1969 song.

STANDARDS ADOPTED INTO LAW ARE PUBLIC DOMAIN, LAW PROFS SAY
URL: http://www.law360.com/ip/articles/760287

A group of law professors on Wednesday urged a D.C. federal court to rule against the American Psychological Association Inc. and other organizations that claim a website infringed a copyright for their testing standards by publishing the materials online.

MODERNISING COPYRIGHT - ICEL/TCD CONFERENCE
via Lexology by Daniel Harrington & Claire Rush on 2/19/2016
URL: http://www.lexology.com/library/detail.aspx?g=d7c4d002-6572-48ec-b5d7-08ae947394c2

The conference on Modernising Copyright, jointly organised by the Irish Centre for European Law and the School of Law, Trinity College Dublin, ...

GEORGE WASHINGTON KEY TO INTELLECTUAL PROPERTY RIGHTS
via The Tennessean by Dandolph J. May & Seth L. Cooper on 2/16/16
URL: http://www.tennessean.com/story/opinion/contributors/2016/02/15/george-washington-key-intellectual-property-rights/80401438/

George Washington – Revolutionary War hero and first President of the United States – is widely known as the Indispensable Man.
VIDEO: UNDERSTANDING THE PROBLEM BEHIND #WTFU
via PlagiarismToday on 2/17/16
URL: https://www.plagiarismtoday.com/2016/02/17/video-understanding-the-problem-behind-wtfu/

Recently, Doug Walker (AKA: The Nostalgia Critic) posted a video entitled “Where’s the Fair Use?” featuring the hashtag #WTFU.

4SHARED WINS COURT CASE TO OVERCOME PIRACY BLOCKADE
via Torrent Freak by Ernesto Van der Sar on 2/19/2016
URL: https://torrentfreak.com/4shared-wins-court-case-to-overcome-piracy-blockade-160219/

As one of the largest online file-sharing services 4shared is closely watched by copyright holders who find their content being made available on the ... 

THE REVOLUTION IN THE MIRROR IS CLOSER THAN IT APPEARS
via The Illusion of More by David Newhoff on 2/19/2016
URL: http://illusionofmore.com/the-revolution-in-the-mirror-is-closer-than-it-appears/

The father of modern chemistry Antoine-Laurent Lavoisier was beheaded in 1793 in what is now the Place de la Concorde. A victim of France’s post-revolutionary Reign of Terror, he was specifically marked for execution by one vengeful, lesser scientist named …

INTELLECTUAL PROPERTY — CHICAGO, IL
via Legal Scholarship Blog by Mary Whisner on 2/19/2016
URL: http://www.legalscholarshipblog.com/2016/02/19/intellectual-property-chicago-il/


WILDLIFE PHOTOG DEFEATS ‘MONKEY SELFIE’ SUIT
via Courthouse News Service by Nicholas Iovino on 2/19/2016
URL: http://www.courthousenews.com/2016/02/19/wildlife-photog-defeats-monkey-selfie-suit.htm

A wildlife photographer has defeated a lawsuit claiming he violated copyright laws by asserting ownership over "monkey ...
EXPENSIVE JOURNALS DRIVE ACADEMICS TO BREAK COPYRIGHT LAW
via Technology : NPR on 2/20/2016
URL: http://www.npr.org/2016/02/20/467468361/expensive-journals-drive-academics-to-break-copyright-law

A new pirate website called Sci-Hub allows free access to academic journals behind paywalls. Heather Joseph, an advocate for legal open access, explains the situation to Linda Wertheimer.

EFF LAUNCHES NEW TPP INFOGRAPHIC
via The Illusion of More by David Newhoff on 2/20/2016
URL: http://illusionofmore.com/eff-tpp-infographic/

So, this week, the Electronic Frontier Foundation launched its new infographic (stress on graphic) still pitching the idea that it is the IP provisions in the Trans Pacific Partnership agreement that are of the gravest concern. The EFF states on their site that …

HOW I TURNED A BS YOUTUBE COPYRIGHT CLAIM BACK ON THE REAL INFRINGER
via PetaPixel by Aram Pan on 2/20/2016
URL: http://petapixel.com/2016/02/20/how-i-turned-a-bs-youtube-copyright-claim-back-on-the-real-infringer/

Basically, I feel that the YouTube copyright reporting system is seriously ... Their claim was that the “Clarion Conspiracy” audio track was copyrighted ...

EVENT ORGANIZER BOOKED FOR COPYRIGHT VIOLATION
via The Time of India on 2/20/2016

Surat: A complaint has been lodged against an event-organizing firm's owner for alleged copyright violation. The firm had allegedly played Bollywood ...

FSU FACES FINE AFTER COPYRIGHT INFRINGEMENT
via Bottom Line News by Mia McCaslin on 2/21/2016
URL: http://thebottomlinenews.com/fsu-faces-fine-after-copyright-infringement/

On Monday, February 15th, faculty and staff of Frostburg States University received an email warning departments against the use of copyrighted ...
Yes, sometimes customers are watching copyrighted content, but they aren't downloading that material. They're streaming it, and streaming falls into a ...

A colorful art display draws viewers at Tulane, but creators of works such as this can be confused by copyright and fair use issues. In her talk at Tulane, ...

A District of Columbia federal judge refused Friday to toss a music industry group’s suit against General Motors and Ford over allegedly unpaid music royalties, saying the group has sufficiently alleged that the multipurpose navigation devices at the heart of the dispute are covered by a federal law that bars music-copying.

The Copyright Act (the “Act”) is the governing statute for copyright law in ... and data analytics software can be copyrighted as “computer programs” ...

A Copyright Office for the 21st Century Friday, March 18, 2016 ? 8:15 AM – 1:00 PM U.S. Capitol Visitor Center ? Room HVC-200 Join us for a conference bringing together experts from academia, industry, and government to discuss how … Continue reading ?
JUDGE ORDERS 50 CENT TO BANKRUPTCY COURT OVER INSTAGRAM PHOTOS
via Law Blog by Katy Stech on 2/22/2016

A bankruptcy judge said rapper 50 Cent's Instagram photos are raising questions about whether he is being truthful about his financial situation.

INTERNET TASK FORCE EXAMINES COPYRIGHT IN THE DIGITAL AGE

While the copyright industries have not generally been champions of the so-called "remix culture," the task force has clearly made the issue a priority, ...

HISTORY AGAINST IHEARTMEDIA ON PRE-1972S: SONG OWNERS
via Law360: Intellectual Property by Bill Donahue on 2/22/2016
URL: http://www.law360.com/ip/articles/761662

Song owners who filed a class action against iHeartMedia Inc. in New Jersey over the closely watched issue of pre-1972 songs urged a federal judge Friday not to toss their case, saying “history is not on iHeartMedia’s side.”

FAITH PROGRAMS ASK DC CIRC. TO DITCH CABLE ROYALTY RULING
URL: http://www.law360.com/ip/articles/762053

A group of companies that create religious programs urged the D.C. Circuit on Friday to overrule the Copyright Royalty Board’s rejection of their bid for more cable TV royalties, contending the board relied on flawed data about the value of their shows.

COPYRIGHT ACT BLOCKS PLAYERS’ LIKENESS ROW, 9TH CIRC. TOLD
URL: http://www.law360.com/ip/articles/762085

A company at the center of a proposed class action over the sale of photographs featuring former NCAA basketball players urged the Ninth Circuit on Friday to affirm the suit’s dismissal, arguing the players’ right-of-publicity claims were barred by both the Copyright Act and the First Amendment.
CASH MONEY RECORDS ORDERED TO PAY $1.1M OVER SONGS
via Law360: Media & Entertainment by Matthew Bultman on 2/22/2016
URL: http://www.law360.com/media/articles/762110

A Louisiana federal judge entered a default judgment Monday against hip-hop giant Cash Money Records Inc. in a breach-of-contract and copyright suit, declaring the record label owed a production company almost $1.14 million for work the smaller firm did on a number of songs.

REAL-LIFE ROCKY SUES OVER 'COPYCAT' FILM
via THR, Esq. by Ashley Cullins on 2/22/2016

The boxer who inspired the character of Rocky Balboa is preparing for a legal fight over his life story.

THE ONLINE ADVERTISING MARKET WITH ANDREW ORLOWSKI
via The Illusion of More by David Newhoff on 2/23/2016
URL: http://illusionofmore.com/online-advertising-andrew-orlowski/

Embed from Getty Images I haven’t done a podcast in a while but decided to reach out to technology writer Andrew Orlowski after reading his article Alphabetti Spaghetti: What Wall Street isn’t telling you about Google. Andrew is the executive …

CHELSEA MANNING DENIED EFF ARTICLES BECAUSE US ARMY CARES ABOUT COPYRIGHT
via Ars Technica by Cyrus Farivar on 2/23/2016

"It is tremendously important to EFF that [prisoners] have access to our materials."

MUSIC STREAMING COMPANY ‘SPOTIFY’ FACING MASSIVE $150+ MILLION LAWSUIT OVER IMPROPER LICENSING AND ROYALTY PAYMENT DISPUTE

Spotify is currently facing a class action lawsuit, filed by David Lowery—lead singer of Camper van Beethoven and Cracker— on December 28, 2015.
STAR TREK FAN FILMMAKERS SAY CBS SUIT STEPS ON FREE SPEECH
URL: http://www.law360.com/ip/articles/762486

The producers of an unauthorized Star Trek fan film urged a federal judge Monday to toss out a copyright infringement lawsuit filed by Paramount Pictures and CBS, saying an order blocking the yet-unproduced film would be impermissible prior restraint on their free speech rights.

STAR TREK' FANS WANT PARAMOUNT, CBS TO DO BETTER JOB EXPLAINING FRANCHISE TO COURT
via THR, Esq. by Eriq Gardner on 2/23/2016
URL: http://www.hollywoodreporter.com/thr-esq/star-trek-fans-want-paramount-868691

Producers of a crowdfunded film also argue that a copyright lawsuit is "premature" because the script hasn't even been finalized yet.

ARTISTS SAY CALIF. RESALE LAW NOT PREEMPTED BY COPYRIGHT
URL: http://www.law360.com/ip/articles/762498

Ten months after the Ninth Circuit refused to declare California’s Resale Royalty Act wholly unconstitutional, a group of artists are trying to fend off the latest argument for why the statute is invalid — that it’s preempted by federal copyright law.

RIVALS FIGHT OVER COPYRIGHT ELIGIBILITY OF SEX TOY
URL: http://www.law360.com/ip/articles/762275

Two rival sex toy makers are duking it out in post-trial motions over whether a dildo is the kind of “useful article” that cannot be protected by copyright law.

21ST CENTURY COPYRIGHT OFFICE CONFERENCE — WASHINGTON, DC
via Legal Scholarship Blog by Tiffany Camp on 2/24/2016

The Duke Law School Center for Innovation Policy and the New York University Law School’s Engelberg Center on Innovation Law & Policy jointly organize the conference 21st Century Copyright Office to be held Friday,...
3-D PRINTING: INNOVATION, OPPORTUNITIES AND RISK
URL: http://www.law360.com/ip/articles/757265

From a legal standpoint, there are two key areas of concern in 3-D printing — intellectual property infringement and product liability. Each has a slightly different impact depending on where you sit within the 3-D printing chain, say Melissa Koch and Brian Stansbury of Akerman LLP.

US COPYRIGHT OFFICE RECOMMENDS NO CHANGE TO THE “MAKING AVAILABLE” RIGHT
via Intellectual Property Watch by Dugie Standeford on 2/24/2016
URL: http://www.ip-watch.org/2016/02/24/us-copyright-office-recommends-no-change-to-the-making-available-right/

The “making available right,” affirmed by the 1996 World Intellectual Property Organization “Internet Treaties”, gives authors the prerogative to authorise digital access to their copyrighted works “in such a way that members of the public may access these works from a place and at a time individually chosen by them.”

STATUTORY RIGHTS TO TERMINATE COPYRIGHT GRANTS
via Lexology by Thomas Kjellberg on 2/24/2016

Imagine you granted or obtained an exclusive license to publish a copyrighted work, such as a book. The license provides, as per the usual boilerplate ...

YOUTUBE SHUTS DOWN POPULAR CHANNEL TEAMFOURSTAR IN LATEST COPYRIGHT CONTROVERSY
via Crave Online by Paul Tamburro on 2/24/2016
URL: http://www.craveonline.com/design/957499-youtube-shuts-popular-channel-teamfourstar-latest-copyright-controversy

Despite the #WTFU campaign YouTube is continuing to raise the ire of its content creators. Paul Tamburro by Paul Tamburro Feb 24th, 2016.
NEW STUDY INDICATES PIRACY IS NOT PROMOTION
via The Illusion of More by David Newhoff on 2/24/2016
URL: http://illusionofmore.com/new-study-indicates-piracy-is-not-promotion/

Last month, I shared some thoughts on the subject of piracy as a tool for promotion, and I won’t repeat all that here. Suffice to say, I’ve never understood why this particular argument has ever been taken seriously—other than the …

COPYRIGHT ACT STATUTE OF LIMITATIONS: WAITING TO FILE MAKES NO (50) CENTS

The U.S. Court of Appeals for the Second Circuit has held that the Copyright Act’s three-year statute of limitations applies to exclusive licensees thereby precluding a lawsuit against rapper Curtis Jackson, also known as “50 Cent,” and various other defendants.

MONKEY SEE, MONKEY SUE DOESN’T FLY UNDER U.S. COPYRIGHT LAW
URL: http://www.natlawreview.com/article/monkey-see-monkey-sue-doesn-t-fly-under-us-copyright-law

In August 2014, we posted about a copyright ownership dispute involving selfie photographs. The disputed selfie photographs were taken by a monkey named Naruto in Indonesia in 2011. The photography equipment used to take these internationally famous “monkey selfies” belonged to famed wildlife photographer David Slater. At the time, Slater claimed copyright ownership because he owned the camera with which the “monkey selfies” were taken.

JAPAN MOVES CLOSER TO MORE MUSCULAR COPYRIGHT LAWS
via Nikkei Asian Review on 2/24/2016
URL: http://asia.nikkei.com/Politics-Economy/Policy-Politics/Japan_moves_closer_to_more-muscular-copyright-laws

Japan took another step toward bringing its copyright laws on a par with those in the West, in accordance with the recently signed ...
OBAMA TAPS NEW HEAD FOR LIBRARY OF CONGRESS
URL: http://www.law360.com/ip/articles/763288

President Barack Obama announced Wednesday that he has tapped Carla D. Hayden to serve as
the nation's 14th Librarian of Congress, a position that includes broad sway on copyright issues,
including exemptions to the Digital Millennium Copyright Act.

OBAMA'S NEW LIBRARIAN OF CONGRESS NOMINEE IS A RIP-SNORTIN',
COPYFIGHTIN', SURVEILLANCE-HATIN' NO ... 
via Bong Boing by Cory Doctorow on 2/24/2016
URL: https://boingboing.net/2016/02/24/obamas-new-librarian-of-cong.html

Next up: watch for a move to rip the US Copyright Office (which now gets to make rules on
things like whether the DMCA prohibits you from using ... 

JAY Z SQUASHES ‘BIG PIMPIN’ COPYRIGHT BEEF IN 2ND CIRC.
URL: http://www.law360.com/ip/articles/763374

Hip-hop superstar Jay Z and his Roc-A-Fella Records LLC record label beat a music producer’s
copyright suit over several songs including “Big Pimpin’” when the Second Circuit ruled
Wednesday that the producer had filed suit 10 years too late.

GOOGLE RENEWS PUSH FOR 'FAIR USE' OF APIS BEFORE ORACLE TRIAL
via Fortune by Jeff John Roberts on 2/24/2016
URL: http://fortune.com/2016/02/24/google-renews-push-for-fair-use-of-apis-before-oracle-trial/

Google and Oracle renewed a copyright skirmish over computer code on Wednesday in a long-
running dispute that has major implications for the U.S. ... 

WHY DOES GOOGLE MAKE IT SO DAMN DIFFICULT TO SEND A DMCA NOTICE?
via Vox Indie by Ellen Seidler on 2/24/2016
URL: http://voxindie.org/why-does-google-make-it-so-difficult-to-send-dmca-notice/

Google sets up roadblocks at every step of the DMCA process, doesn't provide DMCA agent's
email address, and requires senders to login to a Google account.
SPORTS PHOTOGS SEEK TO EXPAND DISCOVERY IN COPYRIGHT CASE
URL: http://www.law360.com/ip/articles/763621

Any evidence that a sports memorabilia retailer has infringed copyrights in the past is relevant to two sports photographers’ suit accusing it of illegally selling memorabilia featuring their photos, the photographers told a Wisconsin federal judge Wednesday, arguing it could help prove willful infringement.

IF YOU WIN AN OSCAR, EXPECT A COPYRIGHT SUIT
URL: http://www.law360.com/ip/articles/763539

Oscar-winning movies have been a magnet for copyright lawsuits over the years, proving time and again one of the unifying axioms of entertainment law: With great success comes great litigation. Here, Law360 ranks the top five recent Academy Award-winning flicks that faced lawsuits.

DISNEY CEO ASKS EMPLOYEES TO CHIP IN TO PAY COPYRIGHT LOBBYISTS
via Ars Technica by Joe Mullin on 2/25/2016


INSURER FIGHTS URBAN OUTFITTER COVERAGE BID IN COPYRIGHT ROW
URL: http://www.law360.com/ip/articles/763908

An insurance company urged a Pennsylvania court Monday to dismiss Urban Outfitters’ suit seeking to force it to cover a copyright infringement judgment the retailer is appealing over a dress pattern, saying the indemnification issue is premature until an appellate court rules on the infringement case.

EX-PLAYERS' PUBLICITY CLAIMS OVER NFL FILMS DENIED BY 8TH CIRC.
URL: http://www.law360.com/ip/articles/764364

The Eighth Circuit on Friday rejected the appeal of three former NFL players who opted out of a $42 million settlement agreement over the use of their likenesses in NFL-sponsored TV shows and filed their own suit, finding that the Copyright Act preempted their right-of-publicity claims.
RICHARD PRINCE SAYS INSTAGRAM POSTS IN EXHIBIT WAS FAIR USE
URL: http://www.law360.com/ip/articles/764327

Artist Richard Prince filed a much-anticipated response Friday to a copyright infringement suit filed over an exhibit of photos he pulled from Instagram without permission, blasting the case as an attempt to “essentially re-litigate” his controversial fair use victory against another photographer.

100 PERCENT LICENSING: US COPYRIGHT OFFICE ARGUES NEW PROPOSAL THREATENS SONG OWNERS' RIGHTS
via Billboard by Ed Christman on 2/26/2016

US Copyright Office Director Maria Pallante attends the U.S. Germanic Copyright Summit at the American Film Market at the Loews Santa Monica ...

IT IS IN HONG KONG'S INTEREST FOR THE COPYRIGHT BILL TO BE PASSED
via South China Morning Post on 2/26/2016
URL: http://www.scmp.com/comment/insight-opinion/article/1917590/it-hong-kongs-interest-copyright-bill-be-passed

No legislation has experienced a more stumbling process than the copyright amendment bill. Having been delayed by pan-democrat filibustering for ...

RIAA SHUTS DOWN LONG-RUNNING PIRACY SITE IN LATEST COURT WIN
via Billboard by Andrew Flanagan on 2/26/2016
URL: http://www.billboard.com/articles/business/6890434/riaa-shuts-down-mp3skull-pirate-site

The finding against the pirate site comes just a few weeks ahead of the deadline for renewal of the Center for Copyright Information's "Memorandum of ...

RAUSCHENBERG FOUNDATION EASES COPYRIGHT RESTRICTIONS ON ART
via N.Y. Times by Randy Kennedy on 2/26/2016
URL: http://www.nytimes.com/2016/02/27/arts/design/rauschenberg-foundation-eases-copyright-restrictions-on-art.html

As smartphones and social media have led to a proliferation of copyrighted art images on the web, some foundations and estates — through the two ...
NFL FILMS RULING A HURDLE FOR PLAYER PUBLICITY RIGHTS
URL: http://www.law360.com/ip/articles/764614

The Eighth Circuit on Friday denied publicity rights claims by a group of former NFL players in a ruling that attorneys say creates a major copyright roadblock for athletes looking to recover for the use of their likenesses in prior game footage or highlights.

CALIFORNIA MAN ADMITS TO PIRATING ‘THE REVENANT’ AND ‘THE PEANUTS MOVIE’
via THR, Esq. by Ashley Cullins on 2/26/2016
URL: http://www.hollywoodreporter.com/thr-esq/california-man-admits-pirating-revenant-870168

An employee on a studio lot copied screeners of unreleased films onto a portable drive and uploaded them to a peer-to-peer site called Pass the Popcorn that allows users to download movies.

NO MORE MONKEY BUSINESS IN COPYRIGHT LAW
URL: http://www.natlawreview.com/article/no-more-monkey-business-copyright-law

Since at least the 1950s, humans have taken an interest in the claimed artistic abilities of animals. Give a primate a paintbrush, and you may get a masterpiece in abstract creativity. Train an elephant to hold a paintbrush in its trunk, and you may even get a self-portrait. But who owns the copyrights to these works of art? Is it the human that owns the animal? Or the human that provides the art supplies?

POUNDSTRETCHER SUED FOR 'SELLING FAKE BOTTLES OF HEAD & SHOULDERS SHAMPOO'
via Independent by Simon Neville on 2/28/2016

The case could turn a spotlight on cheaper, private labels looking very similar to big brands, which many analysts say stretches copyright laws to the ...
RUSSIAN TV CHANNELS SUE US BROADCASTERS OVER ALLEGED COPYRIGHT INFRINGEMENT
via Russian Legal Information Agency on 2/29/2016
URL: http://www.rapsinews.com/judicial_news/20160229/275492780.html

Several Russian TV channels, including state-run Channel One, have filed a lawsuit with the U.S. District Court for ...

DYLAN THOMAS PHOTOS COPYRIGHT FIGHT COST £200000
via BBC News by Huw Thomas on 2/29/2016

More than £200,000 has been spent by the Welsh government defending claims for copyright infringement over its use of photographs of Dylan ...

THE REVENANT' LEAKER FACES 3 YEARS IN PRISON FOR COPYRIGHT INFRINGEMENT
via Gizmodo by Aatif Sulleyman on 2/29/2016
URL: http://www.gizmodo.co.uk/2016/02/the-revenant-leaker-faces-3-years-in-prison-for-copyright-infringement/

A chap who copied The Revenant to a USB drive and posted it online has been arrested by the FBI and now faces a prison sentence. William Kyle ...

COPYRIGHT SUIT ALLEGES HUCKABEE CAMPAIGN LACKS "EYE OF THE TIGER"
URL: http://www.natlawreview.com/article/copyright-suit-alleges-huckabee-campaign-lacks-eye-tiger

Mike Huckabee's poor performance in the Iowa caucuses – leading to his subsequent withdrawal from the race – isn't his only concern lately.

LETTER: PEOPLE HAVE A RIGHT TO THEIR INTELLECTUAL PROPERTY
via The Source by David Bocek on 2/29/2016
URL: http://www.sourcenewspapers.com/articles/2016/02/29/opinion/doc56d4adff04f23645425421.txt

I am responding to R. Warren Anderson's column about taking away billionaires' copyrights and publicly funded sports stadiums that was in The ...
WARNER’S $14M ‘HAPPY BIRTHDAY’ DEAL NEARS APPROVAL
URL: http://www.law360.com/ip/articles/765500

A California judge indicated Monday he would approve Warner/Chappell Music’s $14 million deal to settle class action litigation over its now-invalidated copyright on "Happy Birthday to You," after receiving assurances that money from the settlement fund wasn’t likely to revert back to the company.

3/3: SILICON FLATIRONS CONFERENCE WITH BRAUNEIS, SILBELY, AND CSUSA COPYRIGHT CAREERS PANEL
via CSUSA on 2/29/2016
URL: http://www.csusa.org/news/277475/

Members Jessica Silbey and Robert Brauneis will be speaking at the Silicon Flatirons "Content Conference: Innovation and Incentives in the Creative Arts" on March 3, 2016 at University of Colorado School of Law.

JAY-Z’S TIDAL MUSIC STREAMING SERVICE HIT WITH $5 MILLION COPYRIGHT LAWSUIT
via Fortune by Kia Kokalitcheva on 2/29/2016
URL: http://fortune.com/2016/02/29/tidal-copyright-lawsuit/

Company denies any wrongdoing. In a twist of irony, Tidal, the music streaming service owned by Jay-Z and touting its pro-music artist model, is now ...
March 2016

THE MARCH TOWARD DEMOCRATIZATION OF COPYRIGHT
URL: http://www.law360.com/ip/articles/762613

Copyright law was always designed to balance the interests of creators against the public good of having creations eventually enter the public sphere. For many years, the application of copyright protection tended toward the preservation of economic interests of authors. However, tides are turning, says New York trial and appellate attorney Sam Israel.

TIDAL LAWSUIT: IS JAY Z'S MUSIC-STREAMING SERVICE RIPPING OFF ARTISTS AND INFRINGING COPYRIGHT?
via International Business Times by Oliver Gragg on 3/1/2016

The Tidal dream may be over already. Jay Z's music-streaming has been accused of not paying royalties and infringing artist copyright, in a legal ...

CBS MOVES TO NIX PRE-1972 SUITS, CITING REMASTERED SONGS
URL: http://www.law360.com/ip/articles/765533

CBS is asking judges in California and New York to toss out lawsuits seeking royalties for pre-1972 songs, doubling down on the argument that the “remastered” versions it plays on the radio aren’t even pre-1972 songs in the first place.

LMFAO BOMBSHELL? RICK ROSS' 'HUSTLIN' COPYRIGHT UNDER EXAMINATION

After review, Register of Copyrights Maria Pallante threw a wrench into the ongoing dispute between Rick Ross and LMFAO with word that her office ...
MARCH 18TH CONFERENCE: A COPYRIGHT OFFICE FOR THE 21ST CENTURY
via CPIP on 3/1/2016
URL: http://cpip.gmu.edu/2016/03/01/march-18th-conference-a-copyright-office-for-the-21st-century/

On Friday, March 18th, a conference will be held at the U.S. Capitol Visitor Center in Washington, D.C., entitled “A Copyright Office for the 21st Century.” Experts from industry, academia, and government will come together to discuss various options for modernizing the U.S. Copyright Office so that it can best serve all of its stakeholders—including … Continue reading March 18th Conference: A Copyright Office for the 21st Century ?

RICK ROSS’ ‘EVERYDAY I’M HUSTLIN’ COPYRIGHT QUESTIONED IN LMFAO LAWSUIT
via EurWeb on 3/1/2016

After review, Register of Copyrights Maria Pallante said her office should have refused to grant all three of the registrations. According to her letter, the …

INFINITE POSSIBILITIES – THE U.S. CHAMBER INTERNATIONAL IP INDEX, 4TH EDITION

The 4th Edition of the U.S. Chamber International IP Index, Infinite Possibilities, maps the IP environment in 38 economies around the world, collectively accounting for nearly 85% of global gross domestic product (GDP). Each economy’s score is based upon 30 indicators spread across six categories – Patents, Copyrights, Trademarks, Trade Secrets, Enforcement, and International Treaties. Infinite Possibilities re-evaluates IP policies in the 30 economies from the 3rd edition and also includes 8 new economies: Algeria, Brunei, Ecuador, Israel, Italy, Poland, Sweden, and Venezuela. Additionally, the Index includes six new correlations on the relationship between strong IP rights and socio-economic benefits: access to finance, high-quality human capital, foreign direct investment attractiveness, inventive activity, advanced technology markets, and streamlined and enhanced access to creative content.
The Kernochan Center for Law, Media, and the Arts at Columbia University Law School will hold its 29th Annual Horace S. Manges Lecture on March 24th 6:15 pm.

Google Inc. was hit with a proposed class action Tuesday in New York federal court accusing the company of failing to pay mechanical royalties for its Google Play Music streaming service, a lawsuit similar to ones lobbed against streaming rivals Spotify and Tidal in recent months.

In an extraordinary order, U.S. District Judge William Alsup said he's considering a total blackout on Internet investigation of jurors selected for the high-stakes copyright trial between Oracle and Google.

With the United States Supreme Court ruling in Myriad, the enforceability of certain claims in existing gene patents and the broader patentability of...

"What the f--k, Kanye ... Can't afford Serum? Dick," says software co-owner Deadmau5.
MALAWI AWAITS REVIEWED COPYRIGHT LAW
URL: http://www.ip-watch.org/2016/03/02/malawi-awaits-reviewed-copyright-law/

Artists in Malawi are hopeful that the Copyright Bill, drafted four years ago, will be discussed when the parliament meets in the first quarter of this year, paving a way to plug unauthorised use of works that they say has led to massive loss of revenue.

TPP IS OBAMA’S TOP TRADE PRIORITY FOR 2016
URL: http://www.ip-watch.org/2016/03/02/tpp-is-obamas-top-trade-priority-for-2016/

Passage of the Trans-Pacific Partnership agreement is the Obama administration's top trade priority this year, the Office of the United States Trade Representative said in its annual trade agenda released today. The agenda highlights intellectual property protection but also says all the right things on copyright limitations and exceptions, safe harbor for internet service providers, and the ability of countries to use flexibilities under international trade law.

SEX TOY COS. STILL CROSSING SWORDS OVER COPYRIGHT VERDICT
URL: http://www.law360.com/ip/articles/765844

Two rival sex toy makers embroiled in a copyright infringement case involving dildos and girth-enhancement products fired off opposing post-trial replies on Monday in California federal court, seeking either a new trial or a partial reversal of a jury’s verdict.

8TH CIRCUIT CLARIFIES REACH OF COPYRIGHT ACT IN PREEMPTING RIGHT OF PUBLICITY CLAIMS
via Lexology by Kathryn J. Fritz & Ciara N. Mittan on 3/2/2016
URL: http://www.lexology.com/library/detail.aspx?g=cc336cf0-4b61-4e1d-871b-1a2f8ea40425

NFL Films, Inc., as an example where a right of publicity claim was not preempted because a copyrighted voice recording originally used in an NFL ...

GOOGLE, ORACLE CAN'T SLOW PROCESS TO STUDY JURORS’ FACEBOOK
URL: http://www.law360.com/ip/articles/766139

Google and Oracle attorneys won’t be allowed to use a questionnaire to vet potential jurors ahead of a May copyright infringement trial, a California federal judge ruled Tuesday, saying the
parties may just be trying to slow jury selection to allow their investigators extra time to search jurors’ Facebook and other social media accounts.

COPYRIGHT SMALL CLAIMS WHITE PAPER RELEASED BY VISUAL ARTS ASSOCIATIONS
via Virtual-Strategy Magazine on 3/2/2016
URL: http://www.virtual-strategy.com/2016/03/02/copyright-small-claims-white-paper-released-visual-arts-associations

While there has been a great deal of discussion recently about the possibility of Congress creating a small claims process for visual arts, several visual ...

COPYRIGHT DISAGREEMENT BETWEEN EDUCATIONAL SECTOR AND WRITERS ONGOING
via Hill Times by John Degen on 3/2/2016
URL: http://www.hilltimes.com/2016/03/02/copyright-disagreement-between-educational-sector-and-writers-ongoing/52640/45494

'Boiled down, the concern is this—Canada's writers and publishers must be paid when our work is copied and republished as educational course ...

YOUTUBE RIVALS WRAP UP TRIAL OVER WHAT’S A FAIR USE PARODY
URL: http://www.law360.com/ip/articles/766433

The producers of a YouTube web-series poking “crass” fun at viral Internet videos told a California jury during closing statements Wednesday their videos are fair use-protected parodies, so they shouldn’t have to pay license fees demanded by a rival whose content they used.

DID CAMPBELL V ACUFF-ROSE FIND 2 LIVE CREW’S SONG TO BE FAIR USE?
via Copyhype by Terry Hart on 3/3/2016
URL: http://www.copyhype.com/2016/03/did-campbell-v-acuff-rose-find-2-live-crews-song-to-be-fair-use/

Last week, a group of organizations including the Association of Research Libraries, EFF, and Public Knowledge celebrated “Fair Use Week.” As part of the celebration, a trio of writers and illustrators released a comic book explaining the Supreme Court’s 1994 Campbell v. Acuff-Rose decision. Campbell v. Acuff-Rose is the most recent Supreme Court decision on […]

Joshua L. Simmons
joshua.simmons@kirkland.com

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SPORTS PHOTOGS CAN'T EXPAND DISCOVERY IN IP ROW, COURT TOLD
URL: http://www.law360.com/ip/articles/766606

Sports memorabilia retailer Event USA Corp. hit back against the “grotesquely overbroad” discovery requests of two sports photographers accusing it of illegally selling memorabilia featuring their photos, telling a Wisconsin federal court Wednesday that the requests fall outside the scope of discovery that has already been set.

GOOGLE, ORACLE SETTING UP JURORS TO FAIL IN API COPYRIGHT RETRIAL, JUDGE SAYS
via Ars Technica by David Kravets on 3/3/2016

Loser may impeach verdict "by investigating the jury to find some 'lie' or omission."

FOX OWES $1.5B FOR STEALING 'EMPIRE' FROM NOVEL, SUIT SAYS
URL: http://www.law360.com/ip/articles/767063

Twentieth Century Fox is facing another intellectual property lawsuit over its smash hit “Empire,” this time from an author who says the show was based on his 2007 novel and claims Fox owes him $1.5 billion as a result.

YOUTUBE WANTS TO FIX ITSELF? HERE'S ONE SUGGESTION…
via Vox Indie by Ellen Seidler on 3/3/2016
URL: http://voxindie.org/youtube-wants-to-fix-itself-heres-a-suggestion/

Why doesn’t YouTube make it easier for people to work things out when there’s a dispute over content? Every week it seems there’s a new headline bemoaning content that has been mistakenly removed from YouTube due to bogus copyright claims. This so-called “takedown abuse” makes for good headlines, but per usual, there’s much more to […]

FAIR USE VERDICT TO STAY SEALED AS YOUTUBE RIVALS SETTLE
URL: http://www.law360.com/ip/articles/767023

The producers of a YouTube Web-series poking “crass” fun at viral Internet videos and a rival whose content they used reached a confidential settlement late Wednesday, shortly before a
California federal jury returned a now-sealed verdict on whether the series was fair use-protected.

YOUTUBE TRIAL: JUROR SAYS YOUTUBER’S INCORPORATION OF UNLICENSED CLIPS IS NOT FAIR USE
via THR, Esq. by Ashley Cullins on 3/3/2016
URL: http://www.hollywoodreporter.com/thr-esq/youtube-trial-juror-says-youtubers-872610

A confidential settlement made during deliberation makes the jury's verdict moot.

NPPA AND OTHER VISUAL ARTS ASSOCIATIONS RELEASE COPYRIGHT SMALL CLAIMS WHITE PAPER
via NPPA on 3/2/16

Seven visual arts associations, including NPPA, release proposal to Congress for copyright small claims legislation

WORK-FOR-HIRE CLAUSES AND AGREEMENTS: ONE KEY TO INTELLECTUAL PROPERTY OWNERSHIP
URL: http://www.lexology.com/library/detail.aspx?g=52c64372-da24-4b12-9064-ffd5a12b35e1

Works made for hire are deemed authored by the employer (or party hiring the independent contractor) for copyright purposes, rather than by the ...

YOUTUBE TAKES DOWN UBER ATTACK ADS AFTER MEARS COPYRIGHT COMPLAINT
via Orlando Sentinel by Gray Rohrer on 3/4/2016

Uber's ad attacking Senate President Andy Gardiner for allegedly blocking a ride-hailing bill it favors has been taken down by...
JUKIN MEDIA, EQUALS THREE SETTLE YOUTUBE VIRAL-VIDEO COPYRIGHT LAWSUIT
via Variety by Todd Spangler on 3/4/2016

After Jukin had submitted YouTube takedown notices under the Digital Millennium Copyright Act for several Equals Three videos, Equals Three in ...

MCGRAW-HILL SUES AIG UNIT FOR COVERAGE OF COPYRIGHT SUITS
URL: http://www.law360.com/ip/articles/767636

Textbook publisher McGraw-Hill Education Inc. sued an American International Group unit Friday in Illinois federal court, claiming the insurer has flouted its obligation to cover settlements in copyright infringement suits alleging McGraw-Hill has misused photos in its publications.

2ND CIRC. SPOKE VOLUMES FOR GOOGLE BOOKS, HIGH COURT TOLD
URL: http://www.law360.com/ip/articles/767688

Google Inc. urged the Supreme Court on Tuesday to leave intact a November ruling that upheld the legality of Google Books, saying the Second Circuit correctly concluded that the book search project constitutes fair use and doesn’t infringe on Authors Guild copyrights.

WHY THE RAUSCHENBERG FOUNDATION'S EASING OF COPYRIGHT RESTRICTIONS IS GOOD FOR ART AND JOURNALISM

Last week, the Robert Rauschenberg Foundation in New York announced that it would ease copyright restrictions on art belonging to the artist.

ROBERT RAUSCHENBERG FOUNDATION BRINGS COPYRIGHT LAW INTO 21ST CENTURY
via OPB by Aaron Scott on 3/4/2016
URL: http://www.opb.org/artsandlife/article/robert-rauschenberg-foundation-copyright-law/

The iconoclastic artist Robert Rauschenberg was well known for pushing art world boundaries. He said he wanted to work “in the gap between art and ...
WHERE DID MARKETING GET THAT CONTENT?
URL: http://www.law360.com/ip/articles/767398

Your marketing department likely has a team of people with easy access to a massive quantity of third-party visual content. They expect to get those materials for free, and they might not even understand that they need to obtain rights in them. They release content worldwide, instantaneously, as frequently as possible, with little to no time for anyone to review and ask questions, says Jed Enlow, of counsel with Leavens Strand & Glover LLC and production attorney for the “Steve Harvey” show.

HONG KONG GOVERNMENT DROPS COPYRIGHT BILL

According to Channel NewsAsia, the copyright bill has been dropped to the bottom of the legislative agenda after the LegCo, Hong Kong's legislature, ...

MANHATTAN STUFFED TEDDY BEAR DESIGNER SUED RALPH LAUREN CORPORATION FOR COPYRIGHT ...
via Lawyer Herald on 3/7/2016

Designer Ralph Lauren greets the audience at the Ralph Lauren Fall 2016 fashion show during New York Fashion ...

HIGH COURT WON'T HEAR BATMOBILE COPYRIGHT CASE
URL: http://www.law360.com/ip/articles/767971

The U.S. Supreme Court said Monday it would not review a Ninth Circuit ruling that the Batmobile is a copyrightable character owned by Warner Bros. Entertainment Inc., leaving in place an infringement ruling against a carmaker who sold replicas of Batman's iconic ride.
POW! SUPREME COURT REJECTS APPEAL IN BATMOBILE COPYRIGHT CASE via NBC News on 3/7/2016

The U.S. Supreme Court is staying out of a copyright dispute involving a California man who produced replicas of the Batmobile for ...

FOREIGN COPYRIGHT HOLDERS COULD MORE ACTIVELY PROTECT IP IN RUSSIA via Intellectual Property Watch by Eugene Gerden on 3/7/2016

Russia is continuing to strengthen its national legislation in the field of intellectual property, through the provision of means for foreign copyright holders to more actively protect their intellectual property in Russia and the elimination of bureaucratic hurdles, according to official sources.

SUPREME COURT WON'T HEAR BATMOBILE, APPLE E-BOOKS DISPUTES via THR, Esq. by Eriq Gardner on 3/7/2016

The high court won't jumpstart a review of copyright or antitrust laws.

URL: http://www.fordhamiplj.org/2016/03/07/in-defense-of-an-open-source-system-of-citation/

The Bluebook: comically elaborate, grotesque, and seemingly indispensable. Among an ever-growing list of complimentary terms, the authoritative legal citation system was most recently called “the most boring piece of intellectual property imaginable.” Both the origins of the Bluebook as well as the extent to which its copyright extends are currently up for debate.

COPYRIGHT AND THE US PRIMARIES: FROM ADELE TO NEIL YOUNG, WHY DO ARTISTS KEEP GETTING BERNED BY ... via Lexology by Siao-Sun Hoon on 3/7/2016

From Trump to Clinton to Cruz, there is no presidential campaign that doesn't involve the candidate strutting onto the stage to an 'inspirational' song.
JUDGE HALTS ARETHA FRANKLIN DOC RELEASE BUT NEGOTIATIONS CONTINUE
via THR, Esq. by Ashley Cullins on 3/7/2016

The injunction is not intended to kill the documentary, but to save time, money and court resources while Franklin and 'Amazing Grace' producer Alan Elliot come to terms on a deal.

SUPREME COURT STAYS OUT OF BATMOBILE CASE, A VICTORY FOR DC COMICS' COPYRIGHT CRUSADE
via Los Angeles Times by Ryan Faughnder on 3/7/2016

Pow! Zap! Bam! DC Comics has won its crusade against Batmobile duplicates. The comic book publisher's legal battle with a Temecula mechanic over ...

CSS AND HTML CODE MAY BE COPYRIGHTABLE–MEDIA.NET V. NETSEER
via Technology & Marketing Law Blog by Venkat Balasubramani on 3/7/2016

Media.net and Netseer both offer contextual advertising services. Their clients place ad units on their website and, when visitors click on ads, they are taken to a “search results” page. Media.net accused Netseer of copyright infringement and various state law...

ABC HIT WITH COPYRIGHT SUIT OVER PAPARAZZO'S ANTHONY WEINER VIDEO
via THR, Esq. by Ashley Cullins on 3/7/2016
URL: http://www.hollywoodreporter.com/thr-esq/abc-hit-copyright-suit-paparazzos-873289

A photographer says his 2013 video of Anthony Weiner was used by ABC without his permission.

PHOTOG SUES ABC NEWS OVER USE OF ANTHONY WEINER VIDEO
URL: http://www.law360.com/ip/articles/768226

A New York City-based photographer sued ABC News for alleged copyright infringement Monday, saying the outlet broadcast his unique footage of disgraced former lawmaker Anthony Weiner without permission.
PROTECTING A CHARACTER UNDER COPYRIGHT: SUPREME COURT DENIAL IN BATMOBILE CASE LEAVES TEST INTACT
via Bloomberg BNA by Anandashankar Mazumdar on 3/7/2016
URL: http://www.bna.com/protecting-character-copyright-b57982068218/

Thanks to the Supreme Court, the Batmobile still stands. As a literary character, that is. On March 7, the high court declined a petition to review DC ...

GOOGLE COPYRIGHT TAKEDOWN REQUESTS JUMP TO 76 MILLION IN PAST MONTH
via cNet by Lance Whitney on 3/7/2016

Google has seen a surge in takedown requests for copyrighted material. ... on search results that link to material that allegedly infringes copyright.

GOOGLE'S LAWYERS AGREE NOT TO GOOGLE JURORS
via Law.com - Newswire by Ross Todd on 3/7/2016
URL: http://www.law.com/sites/articles/2016/03/08/googles-lawyers-agree-not-to-google-jurors/

So long as the ban applies equally, Robert Van Nest said his side has no objection to a rule prohibiting Internet research into potential jurors in Oracle-Google copyright trial.

ORACLE, GOOGLE JOCKEY OVER JURY INSTRUCTIONS
via Law.com - Newswire by Scott Graham on 3/7/2016
URL: http://www.law.com/sites/articles/2016/03/08/oracle-google-jockey-over-jury-instructions/

With retrial looming before Judge William Alsup, Google wants to tweak the road map provided by the Federal Circuit in its 2014 opinion.

EIGHTH CIRCUIT TELLS FORMER NFL PLAYERS: YOUR RIGHT OF PUBLICITY CLAIMS ARE PREEMPTED BY THE ...
via Lexology by Andreas Becker on 3/8/2016
URL: http://www.lexology.com/library/detail.aspx?g=b0b8deb3-dd48-45cb-ae47-9e9ac28c52d4

Most notable in the Eighth Circuit's order is its determination that the players' right of publicity claims were preempted by the Copyright Act. To ...
PROBLEMS IN COPYRIGHT RULING ON 9/11 PHOTO
URL: http://www.law360.com/ip/articles/767620

The New York federal court’s copyright ruling in North Jersey Media v. Fox News, which now stands as precedent after Fox settled just before trial, is that it undermines a central paradigm of constitutional law — the free marketplace of ideas, says Michael Rips of Steptoe & Johnson LLP.

NEW LEGISLATION ENHANCES US CUSTOMS AND BORDER PROTECTION'S ENFORCEMENT OF IP RIGHTS
URL: http://www.worldtrademarkreview.com/Daily/detail.aspx?g=eb483829-c26d-4e86-9a41-ac9596198713

Title III of the act focuses on IP protection and provides for a number of enhanced enforcement directives that will assist trademark and copyright ...

UNIVERSAL, JESSIE J STOLE POP HIT ‘DOMINO’, 9TH CIRC. TOLD
URL: http://www.law360.com/ip/articles/768921

A California indie rocker urged the Ninth Circuit Tuesday to revive his lawsuit alleging Universal Music Group and pop star Jessie J ripped off his song for their hit "Domino," arguing the pop hit’s writers had access to his song through Universal.

GOOGLE OK WITH POTENTIAL BAN ON INTERNET SEARCH OF JURORS
URL: http://www.law360.com/ip/articles/769049

Google Inc. on Tuesday told a California federal judge that it wouldn't oppose a potential court order preventing it and Oracle America Inc. from studying potential jurors' social-media accounts before a verdict is reached in an upcoming copyright infringement trial.

COPYRIGHT LAW IN CAMBODIA: LIMITATIONS FOR FOREIGN RIGHTS HOLDERS
via Lexology by Sokmean Chea & Chandavya Ing on 3/9/2016
URL: https://www.lexology.com/library/detail.aspx?g=3717869b-1ea5-49ee-825f-d9052f3cc648

Copyright owners often mistakenly believe that the copyrights they hold in other jurisdictions will also be automatically protected under Cambodian ...
TRUNKI LOSES DESIGN COPYRIGHT BATTLE AT SUPREME COURT
URL: http://www.standard.co.uk/business/trunki-loses-design-copyright-battle-at-supreme-court-a3199391.html

Children's ride-on suitcase brand Trunki has lost its Supreme Court battle against a rival over intellectual property rights. Parent company ...

STRUCK CLAIMS TO COPYRIGHT INFRINGEMENT AND PASSING OFF SENT BACK TO THE FEDERAL COURT FOR RE ...
via Lexology by Chantal Saunders et al. on 3/9/2016
URL: http://www.lexology.com/library/detail.aspx?g=a980454a-20ec-48ac-ae86-75331f84ae62

The appellant is the owner and publisher of an Indian Punjabi-language daily newspaper called the "Ajit Daily", a paper that has been published in ...

GOOGLE, WAZE BEAT RIVAL'S COPYRIGHT CLAIMS IN ROUND 2
URL: http://www.law360.com/ip/articles/769237

Google Inc. and its Waze unit cleared a hurdle in competitor PhantomALERT's suit alleging the pair stole its copyrighted traffic database when a California federal judge on Tuesday dismissed the suit a second time, telling PhantomALERT to elaborate on its claims Google copied its work.

EXCITEMENT OVER LIBRARIAN NOMINEE IS NOT AN EXCUSE TO MISLEAD.
via The Illusion of More by David Newhoff on 3/9/2016
URL: http://illusionofmore.com/librarian-nominee-excuse-to-mislead/

The February nomination of Dr. Carla Hayden by President Obama to the position of Librarian of Congress was apparently cause for excitement among many of the usual suspects who write in opposition to copyright. Because the Copyright Office operates within … Continue reading ?

GOOGLE SAYS IT WON'T GOOGLE JURORS IN UPCOMING ORACLE API COPYRIGHT TRIAL
via Ars Technica by David Kravets on 3/9/2016
URL: http://arstechnica.com/tech-policy/2016/03/google-says-it-wont-google-jurors-in-upcoming-oracle-api-copyright-trial/

Oracle worried Google might research jurors' Gmail, ad-viewing, browsing history.
SUPREME COURT WON’T TINKER WITH RULING GIVING COPYRIGHT TO THE BATMOBILE
via Ars Technica by David Kravets on 3/9/2016

The Batmobile is for Batman and Robin, unless you get a license from DC Comics.

RHAPSODY HIT WITH $150M COPYRIGHT INFRINGEMENT SUIT BY BAND
URL: http://www.law360.com/ip/articles/769632

Rock band Camper Van Beethoven has hit Rhapsody International Inc. with a proposed class action in California federal court, seeking $150 million for the music streaming service’s alleged copyright infringement, after the band’s front man recently launched a similar suit against Spotify USA Inc.

COPYRIGHT OFFICE PUTS IT MODERNIZATION INTO HIGH GEAR
via GCN by Amanda Ziadeh on 3/9/2016
URL: https://gcn.com/articles/2016/03/09/copyright-office-modernization.aspx

For several years, the U.S. Copyright Office has been planning a modern copyright infrastructure that can accommodate both present and future needs ...

IP GROUP TO JUSTICES: AX STRICT RULES FOR COPYRIGHT ROW FEES
URL: http://www.law360.com/ip/articles/769093

An association of intellectual property owners has urged the U.S. Supreme Court to reject “formulaic” approaches to determining whether attorneys’ fees should be awarded in copyright cases, saying the standard used by the Second Circuit in denying fees to a Thai college student is not consistent with precedent.

BEASTIE BOYS GET FEES IN COPYRIGHT INFRINGEMENT SUIT
URL: http://www.law360.com/ip/articles/769796

The Beastie Boys and their record label won $845,000 in attorneys’ fees and costs after defeating a copyright infringement suit filed by a litigious record label, with a New York federal judge saying Wednesday that the label hadn’t properly traced whether it had the rights to the music.
SYNOPSYS WINS $30 MILLION JURY VERDICT IN COPYRIGHT TRIAL
URL: http://www.law.com/sites/articles/2016/03/10/synopsis-wins-30-million-jury-verdict-in-copyright-trial/

Jury sided with company and its Jones Day legal team in suit against ATopTech.

AUSTRALIAN MEDIA BODY TO DRIVE ANTI-PIRACY CAMPAIGN
via Australia Network on 3/10/2016
URL: http://www.australianetworknews.com/australia-anti-piracy-campaign/

The organisation works for the promotion of copyright, creative rights, piracy research and education. In the rebranding exercise, the erstwhile IP ...

AN AWARENESS CRUSADE AGAINST THE ONLINE PIRACY OF BOOKS
URL: http://www.ipwatchdog.com/2016/03/10/crusade-against-online-piracy/id=66902/

According to the Association of American Publishers, the publishing industry as a whole has lost $80 to $100 million dollars to online piracy annually. From 2009 to 2013, the number of e-book Internet piracy alerts that the Authors Guild of America has received from their membership had increased by 300%. During 2014, that number doubled. I’m certain that in 2016, the statistics will go even higher. The post An Awareness Crusade Against the Online Piracy of Books appeared first on...

PHOTOG HITS CBS SPORTS NETWORK OVER UNLV FOOTBALL COACH PIC
URL: http://www.law360.com/ip/articles/769798

A Las Vegas photographer says the CBS Sports Network showed his photograph of the University of Nevada Las Vegas football coach without permission during a nationally broadcast game against Northern Illinois, according to a suit filed in New York federal court Wednesday.

FOX, WILLIAM MORRIS WIN FEES AFTER BEATING 'NEW GIRL' IP SUIT
URL: http://www.law360.com/ip/articles/769849

A California federal judge awarded about $800,000 in attorneys' fees and costs to 21st Century Fox, William Morris Endeavor Entertainment LLC, the creator of "New Girl" and others Wednesday after they defeated a copyright lawsuit over the sitcom's genesis.
WEBCASTING RULING SENT TO COPYRIGHT REGISTER FOR APPEALS PROCESS
via Billboard by Ed Christman on 3/10/2016
URL: http://www.billboard.com/articles/business/7021125/webcasting-ruling-copyright-register

The Copyright Royalty Board, which issued its final determination on March 4, has sent that decision to the U.S. Copyright Office Register for legal ...

HOW GOOGLE COULD REDUCE ITS MASSIVE TAKEDOWN NUMBERS
via Vox Indie by Ellen Seidler on 3/10/2016
URL: http://voxindie.org/how-google-could-reduce-its-massive-takedown-numbers/

Instead of griping about growing flood of takedowns, why doesn’t Google change its approach? Poor Google….bad, bad copyright holders….that’s essentially the subtext beneath headlines that scream, “Google received over 75 million copyright takedown requests in February-The company is processing over 100,000 links each and every hour.” My response–why not try a different approach? The massive number […]

COPYRIGHT LAW HAS A FREE SPEECH PROBLEM
via The Recorder by John Tehranian on 3/10/2016

Latino celebrities Noelia Lorenzo Monge and Jorge Reynoso had a problem on their hands. Secretly wed in a Las Vegas ceremony in 2007, the ...

SYNOPSYS WINS $30 MILLION JURY VERDICT IN COPYRIGHT TRIAL
via The Recorder by Ross Todd on 3/10/2016
URL: http://www.therecorder.com/id=1202751933488/Synopsys-Wins-30-Million-Jury-Verdict-in-Copyright-Trial

After a two-week trial, the San Francisco jury found that ATopTech infringed copyrights associated with Synopsys' electronic design automation ...

NFL PREVAILS OVER RETIRED NFL PLAYERS' SUIT INVOLVING USE OF GAME FOOTAGE
via Lexology by Regina Vogel Culbert on 3/11/2016
URL: https://www.lexology.com/library/detail.aspx?g=a8584e5e-b892-4028-b89e-aef2948f3943

Last week, the Eighth Circuit held that the Copyright Act pre-empted the … of-publicity suit challenging the use of a copyrighted work in a commercial …
8TH CIRC. CLARIFIES COPYRIGHT PREEMPTION ISSUES IN NFL CASE
URL: http://www.law360.com/ip/articles/769594

Courts around the country have long struggled to define and articulate, with any uniformity, whether and in what circumstances the Copyright Act preempts a right-of-publicity claim. The Eighth Circuit’s recent opinion in Dryer v. NFL signals a shift to a better articulated standard, one that other district and circuit courts should follow, say Kathryn Fritz and Ciara Mittan of Fenwick & West LLP.

AN INTERVIEW WITH MICKEY OSTERREICHER, GENERAL COUNSEL OF THE NPPA
via PetaPixel by Micahel Zhang on 3/7/16

Mickey H. Osterreicher is a lawyer who has served as General Counsel of the National Press Photographers Association (NPPA) since 2006.

FORMER NFL PLAYERS' RIGHT OF PUBLICITY CLAIMS GET SIDELINED—WILL WE HEAR FROM THE REPLAY ...
via Lexology by J. Michael Keyes on 3/11/2016
URL: http://www.lexology.com/library/detail.aspx?g=46577816-c103-487b-a0f5-562e7b7cd90f

The Eighth Circuit held that the right of publicity claims were “preempted” by Section 301 of the Copyright Act. According to the Court, a state law claim ...

SCHMITZ ON THE STRUGGLE IN ONLINE COPYRIGHT ENFORCEMENT
via Media Law Prof Blog by Christine A. Corcos on 3/11/2016
URL: http://lawprofessors.typepad.com/media_law_prof_blog/2016/03/schmitz-on-the-struggle-in-online-copyright-enforcement.html

Sandra VI Schmitz has published The Struggle in Online Copyright Enforcement: Problems and Prospects (Hart Publishing, 2015). Here is a description of the contents from the publisher's website. How are copyright infringements on the Internet responded to? This study outlines...
VANCOUVER AQUARIUM UNCOVERED DIRECTOR CLAIMS USE OF AQUARIUM FOOTAGE NOT COPYRIGHT INFRINGEMENT
via CBC News by Jason Proctor on 3/11/2016

But in his response, Charbonneau claims any use of the "allegedly copyrighted material" is "fair dealing for the purpose of research and education."

SECOND CIRCUIT TOSSES OUT TIME-BARRED COPYRIGHT CLAIMS AGAINST JAY Z

Last month, the Second Circuit Court of Appeals affirmed a New York judge’s decision to dismiss federal copyright and state tort law claims alleged against the hip-hop icon, Jay Z, and his affiliated companies.

PRIVATE LAW & IP CONFERENCE AT HARVARD LAW SCHOOL — YONATHAN ARBEL
via New Private Law by Yonahthan Arbel on 3/12/2016

Over this weekend, The Project on the Foundations of Private Law held a very successful conference at Harvard Law School on the interface between private law and IP. We were delighted to host some of the leading experts in the field who presented deeply intellectual work on a variety of issues ranging […]

WHAT HAPPENED WHEN VIETNAM'S NATIONAL BROADCASTER WAS CAUGHT PINCHING YOUTUBE VIDEOS
via BBC News on 3/12/2016

The case is being reviewed by Vietnam's official copyright authority. However, Tuan says, VTV's television channel is still continuing to use his footage ...
The next round of Oracle's copyright lawsuit against Google over Android will begin on May 9, and we can expect to be treated to a lot of "bombshells" ...

The film studio details what in the "Star Trek" universe is protected by law.

The IPO recently filed an amicus brief at the Supreme Court in Kirtsaeng v. John Wiley & Sons, Inc. supporting a flexible approach to awarding attorneys’ fees. Oral argument is currently scheduled for April 25, 2016. This case presents an important opportunity for the Supreme Court—consistent with its holding in Fogerty v. Fantasy, Inc., 510 U.S. 517, 534 (1994)—to resolve a circuit split regarding how to weigh equitable factors in awarding attorneys’ fees in copyright cases. Attorneys’ ...

SAVE THE DATE! Monday, April 18, 2016: Authors, Attribution, and Integrity: Examining Moral Rights in the United States
In Lenz v. Universal Music Corp., the Ninth Circuit created a heightened standard for Digital Millennium Copyright Act (“DMCA”) takedowns. YouTube, a California company, has recently created a team to help tackle the new standard. Tumblr, a New York company without the effect of the Ninth Circuit ruling, has taken a different approach and has actively submitted to the copyright trolls. There is stark contrast between two of the largest user generated content sites.

While there is an argument here that Osorio can claim protection over the fringe elements of his shoe (in accordance with the copyright doctrine of ...}

On November 26, 2015, the Supreme Court of Canada released an important ruling on the role of technological neutrality in copyright law. In a 7-2 ...

AMVs almost certainly violate the copyrights of the songs being used, however. The ability to synchronize a song to certain visuals is a specific right ...

A California federal judge signed off Monday on a settlement to resolve a lawsuit from Adobe Systems Inc. and others claiming Forever 21 was using illegal copies of software like Adobe Photoshop.
THE LATEST NEWS ON 'TO KILL A MOCKINGBIRD' SHOWS HOW COPYRIGHT LAW IS TOTALLY BROKEN
via Los Angeles Times by Michael Hiltzik on 3/14/2016

The copyright history of Harper Lee's classic novel "To Kill a Mockingbird" long ago crossed into the byzantine realm. But the latest development in the ...

JUDGE LEANS TOWARD NOT AWARDING FEES TO 'BLURRED LINES' ATTORNEYS
via THR, Esq. by Ashley Cullins on 3/14/2016
URL: http://www.hollywoodreporter.com/thr-esq/judge-leans-not-awarding-fees-875496

Attorneys for Marvin Gaye's heirs are requesting about $3.5 million in fees and expenses related to the lawsuit over Pharrell Williams' and Robin Thicke's hit song.

FLIPAGRAM CEO ADMITS TO MASSIVE COPYRIGHT INFRINGEMENT
via Digital Music News by Paul Resnikoff on 3/14/2016
URL: http://www.digitalmusicnews.com/2016/03/14/flipagram-ceo-admits-to-massive-copyright-infringement/

Flipagram has been around since late 2013, and a big deal for years. Basically, it's an easy-to-use photo app that allows users to create fun ...

PHARRELL, THICKE MAY DODGE $3.5M ‘BLURRED LINES’ ATTY FEES
URL: http://www.law360.com/ip/articles/771052

A California federal judge on Monday tentatively ruled Pharrell Williams and Robin Thicke won’t have to pay Marvin Gaye’s family $3.5 million in legal fees despite a verdict they infringed one of Gaye's songs, saying he wasn't persuaded the pop-stars’ preemptive suit seeking a noninfringement finding was in bad faith.

BLURRED LINES' JUDGE LEANS TOWARD NOT MAKING PHARRELL & ROBIN THICKE PAY GAYE FAMILY'S ...
via Billboard by Ashley Cullins on 3/14/2016

Thicke's attorney Howard King says the case was novel and "demarcated the boundaries of copyright law" and therefore a fee award is not ...
A key question in the proceeding was whether copyright subsisted in each version of QSS. At first instance, the primary judge found that the ...

When an unauthorized party uses your company's trademarks or copyrighted works, the natural reaction is to challenge and stop the use. However ...

When your client plans to create new content or use existing third-party content in a new work, it must conduct a review to ensure that it is permitted to use the material. Understanding the many rights that could be implicated in any one piece of content is important to ensure proper and complete clearance, and will inform on the appropriate licenses and permissions that are necessary, says Po Yi of Venable LLP.

Suit cites Warp Drive, Klingon High Council, Uniform with Gold Shirt, more.
TWIQLBAL BOLDLY GOES WHERE NO MAN HAS GONE BEFORE
via PrawfsBlawg by Howard Wasserman on 3/15/2016
URL: http://prawfsblawgblogs.com/prawfsblawg/2016/03/twiqbal-boldly-goes-where-no-man-has-gone-before.html

In late December, Paramount and CBS filed a copyright infringement action against a small company making a short fan-fiction (Kickstarter-funded) movie, a prequel to the Original Recipe series featuring a one-off character from one episode who also has appeared in some expanded-universe books.

CROSSWORDS AND COPYRIGHT

A plagiarism scandal has erupted in the strange and esoteric community of crossword puzzle constructors, and — as plagiarism scandals usually do ...

LOSER IN SEX TOY COS. COPYRIGHT FIGHT WON’T GET NEW TRIAL
URL: http://www.law360.com/ip/articles/771517

A California federal judge said Monday a January jury verdict in a copyright dispute in favor of sex toy company CA-WA Corp. and its owner was supported by the evidence and didn’t warrant a new trial for his ex-wife and her rival company TSX Toys Inc.

IPSC 2016
via IP and IT Conferences by Mike Madison on 3/15/2016
URL: http://madisonian.net/conferences/2016/03/15/ipsc-2016/

16th Annual IP Scholars Conference Aug 11-12 at Stanford Law School & May 15 Deadline for Requests to Present

IP SCHOLARS FORUM AT AKRON
via IP and IT Conferences by Mike Madison on 3/15/2016
URL: http://madisonian.net/conferences/2016/03/15/ip-scholars-forum-at-akron-3/

IP Scholars Forum at Akron Law University of Akron School of Law Akron, Ohio Friday, September 23, 2016
TIMING COULD BE EVERYTHING IN MADDEN FOOTBALL APPEAL
via Law.com - Newswire by Ben Hancock on 3/15/2016
URL: http://www.law.com/sites/articles/2016/03/16/timing-could-be-everything-in-madden-
football-appeal/

Programmer Robin Antonick asked the Ninth Circuit on Wednesday to revive claims that
Electronic Arts swiped his code for its popular Madden NFL series.

PRODUCER DE LAURENTIIS OF “HANNIBAL” SPEAKS OUT AGAINST PIRACY
via The Illusion of More by David Newhoff on 3/16/2016
URL: http://illusionofmore.com/producer-de-laurentiis-of-hannibal-speaks-out-against-piracy/

Veteran film and TV producer Martha De Laurentiis was on Capitol Hill yesterday to take part in
an event called Meet the Producers, presented by Creative Future in conjunction with the
Creative Rights Caucus. Specifically, De Laurentiis has been motivated …

OBAMA ADMINISTRATION’S DRAFT SOURCE CODE POLICY REQUIRES FREE
SOFTWARE
URL: http://www.ip-watch.org/2016/03/16/obama-administrations-draft-source-code-policy-
requires-free-software/

The Obama administration last week published a draft software source code policy that requires
all government agencies to publish their custom-build software as free software for public use,
according to the Free Software Foundation Europe (FSFE).

ARTISTS FRUSTRATED BY GERMANY’S EFFORTS TO BOOST THEIR INTELLECTUAL
PROPERTY RIGHTS
via DW by Kate Muser on 3/16/2016
URL: http://www.dw.com/en/artists-frustrated-by-germanys-efforts-to-boost-their-intellectual-
property-rights/a-19120437

How can artists be fairly paid for their work? Germany’s copyright reform was supposed to make
life easier for artists, writers and other creatives, but …
WELSH GOV’T BEATS COPYRIGHT SUIT OVER DYLAN THOMAS PHOTOS
URL: http://www.law360.com/ip/articles/772360

A New York federal judge ruled Tuesday that a British company could not use U.S. courts to sue the Welsh government and several American newspapers over tourism ads featuring photos of famed Welsh poet Dylan Thomas.

AUTHORS, ATTRIBUTION, AND INTEGRITY — WASHINGTON, DC
via Legal Scholarship Blog by Mary Whisner on 3/16/2016
URL: http://www.legalscholarshipblog.com/2016/03/16/authors-attribution-and-integrity-washington-dc/

The United States Copyright Office and the George Mason University School of Law and its Center for the Protection of Intellectual Property present a symposium, Authors, Attribution, and Integrity: Examining...

SOFT KITTY, SAME KITTY: THE BIG BANG THEORY SUED FOR COPYRIGHT INFRINGEMENT... BAZINGA
via Lexology by Brendon Francis on 3/17/2016
URL: http://www.lexology.com/library/detail.aspx?g=81d7c673-d88a-4e48-a7c5-0a543b897cea

Under the relevant legislation of the time, this also served to register Ms Newlin's corresponding copyright in the lyrics to Warm Kitty, reportedly set to ...

CREATIVE STRATEGIES FOR BEEFING UP COPYRIGHT ENFORCEMENT
URL: http://ip.jotwell.com/creative-strategies-for-beefing-up-copyright-enforcement/

Corporate copyright owners based in the United States have been frustrated by the prevalence of piracy in China and in certain other fast-growing markets, and that frustration has led to three primary responses. The copyright industries have (1) supported proposed legislation that would impose enforcement obligations on U.S. parties, such as the Stop Online Piracy Act; (2) advanced expansive interpretations [...]

SEGWAY COPYRIGHT COMPLAINT LEADS TO US BAN OF HOVERBOARD IMPORTS NOT FIRE RISK
via Daily Mail by Ben Tufft on 3/17/2016

The U.S. has banned almost all imports of hoverboards - not over safety concerns, but because of copyright infringement complaints from Segway.

KELPIES COPYRIGHT QUESTIONED OVER FOOTBALL SCARF PLAN
via The Scotsman by Scott McAngus on 3/17/2016
URL: http://www.scotsman.com/news/politics/kelpies-copyright-questioned-over-football-scarf-plan-1-4074774

“As is usual in such an agreement, the intellectual property rights, including copyright, remained with the creator of the Kelpies, Andy Scott Public Art …

SOCIAL SHAMING DOES NOT CONTROL FASHION COPYCATS

Copyright law, for the uninitiated, is a form of legal protection provided for original works of "authorship." Don't be misled by the language here, which ...

9TH CIRC. WON'T REHEAR 'DANCING BABY' DMCA CASE
URL: http://www.law360.com/ip/articles/773013

The Ninth Circuit on Thursday declined requests to rehear the so-called dancing baby case, but it did make a few major edits to its high-profile September ruling on the Digital Millennium Copyright Act’s notice-and-takedown system.

GROWTH IN LEGAL PLATFORMS FOR FILM & TV CONTINUES
via The Illusion of More by David Newhoff on 3/17/2016

In a recent post, I alluded to a statement by the Copyright Alliance, which emphasizes that Section 1201 of the DMCA supports the development of multiple distribution channels for premium content, giving consumers and producers more choices in the digital market. …
IPIL/HOUSTON 2016 NATIONAL CONFERENCE
via IP and IT Conferences by Mike Madison on 3/17/2016
URL: http://madisonian.net/conferences/2016/03/17/ipilhouston-2016-national-conference/

IPIL/HOUSTON (the Institute for Intellectual Property & Information Law at the University of Houston Law Center) announces its 2016 National Conference in Santa Fe, New Mexico. The title for this year’s event is: “Authorship in America (And Beyond)”. It will …

"DANCING BABY" APPEALS COURT DECISION STANDS MINUS THE "FAIR USE" ALGORITHMS
via THR, Esq. by Ashley Cullins on 3/17/2016

The 9th Circuit won't rehear a case concerning a YouTube video of a toddler dancing to the Prince hit "Let's Go Crazy."

SOFTWARE IP — BERKELEY, CA
via Legal Scholarship Blog by Mary Whisner on 3/17/2016
URL: http://www.legalscholarshipblog.com/2016/03/17/software-ip-berkeley-ca-2/


MUSIC, FILM, TV, AND SPORTS LAW — CORAL GABLES, FL
via Legal Scholarship Blog by Mary Whisner on 3/17/2016

The University of Miami School of Law Entertainment and Sports Law Society presents its annual symposium, From New York to Hollywood to Miami: An International Legal Conference on the World...

TVEYES TELLS 2ND CIRC. ENTIRE SERVICE IS FAIR USE
URL: http://www.law360.com/ip/articles/773288

Media-monitoring service TVEyes Inc. fired the opening salvo Thursday at the Second Circuit in a closely watched copyright battle with Fox News Network, urging the appeals court to rule that the entire service, not just a portion of it, is protected by the fair use doctrine.
SPOTIFY REACHES SETTLEMENT WITH PUBLISHERS IN LICENSING DISPUTE
via NYT > Media by Ben Sisario on 3/17/2016

According to several people involved with the settlement on both sides, Spotify will pay over $20 million to settle the case.

SPOTIFY STRIKES DEAL WITH MUSIC PUBLISHERS
via WSJ.com: WSJD by Hannah Karp on 3/17/2016

Spotify has struck a deal that makes it easier for music publishers to claim royalties they are owed, if they agree not to make copyright-infringement claims against the streaming service.

REASONS FOR REGISTERING COPYRIGHT IN CHINA
via Lexology by Joanne Martin on 3/18/2016
URL: http://www.lexology.com/library/detail.aspx?g=234afdcc-8c4f-4fba-b82a-64bffe8d1f95

Obtaining a Certificate of Recordal of Copyright in China can be a straightforward and inexpensive process if ownership of copyright is readily able to ...

PIRATES AND POPCORN: THE RISE OF SITE-BLOCKING INJUNCTIONS IN THE EU
via Lexology by David Cran & Ben Mark on 3/18/2016
URL: https://www.lexology.com/library/detail.aspx?g=7d0f39ad-27c5-44dc-acdb-c6be33a88b1b

In December 2014, Swedish Police raided Pirate Bay and seized hardware in connection with suspected copyright infringement, taking the site ...

CJEU TAKES MORAL HIGH GROUND IN COPYRIGHT ROW
via WIPR by Ho Yeow Hui on 3/18/2016

Parties asserting copyright claims can also seek compensation for “moral prejudice” suffered from the infringement, the Court of Justice of the ...
PROTECTING COPYRIGHT WITHOUT STIFLING INNOVATION
via Elsevier by Tom Reller on 2/29/16
URL: https://www.elsevier.com/connect/protecting-copyright-without-stifling-innovation

The US Copyright Office has announced a study of Section 512 of the Digital Millennium Copyright Act, the law meant to balance the need for copyright owners to protect their works from online piracy with the need to allow neutral online platforms to offer innovative tools without the threat of liability for their users’ infringements.

DID PIRATES KILL ‘HANNIBAL’?
via The Hill by Martha De Laurentiis on 3/14/16
URL: http://thehill.com/opinion/op-ed/272979-did-pirates-kill-hannibal

I’ve had the great privilege of working in the film and television business for nearly four decades.

GOVT HAS 'BUNGLED' COPYRIGHT COSTS
via Otago Daily Times by Nicholas Jones on 3/17/16
URL: http://www.odt.co.nz/news/politics/376614/govt-has-bungled-copyright-costs-expert

Copyright changes in the Trans-Pacific Partnership will be worth millions of dollars to New Zealand creatives and companies - and the Government estimate of a net annual cost of $55 million is embarrassingly wrong, an economist says.

APPLE MUSIC, DUBSET PARTNER TO STREAM PREVIOUSLY UNLICENSED REMIXES AND DJ MIXES: EXCLUSIVE
via Billboard by Glenn Peoples on 3/15/16

Dubset Media Holdings has announced a partnership that will allow Apple Music to stream remixes and DJ mixes that had previous been absent from licensed services due to copyright issues.

SPOTIFY INKS “NO COPYRIGHT CLAIM” ROYALTY DEAL WITH MUSIC PUBLISHERS
via Ars Technica by Kelly Fiveash on 3/18/2016
URL: http://arstechnica.com/business/2016/03/spotify-royalty-deal-publishers-songwriters/

"Only a temporary solution," says copyright lobby group.

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GOOGLE REALLY, REALLY DOESN’T LIKE YOU TO SEND DMCA REQUESTS VIA EMAIL
via Vox Indie by Ellen Seidler on 3/18/2016
URL: http://voxindie.org/google-hates-dmca-emails/

The Google team doesn't seem to appreciate email as a form of communication

HUCKABEE COPYRIGHT CASE AND 'RELIGIOUS ASSEMBLY' DEFENSE
URL: http://www.law360.com/ip/articles/773613

When Mike Huckabee's presidential campaign was sued based on the alleged unauthorized public performance of “Eye of the Tiger” during a rally for Kim Davis, the Kentucky county clerk who was briefly jailed for refusing to issue same-sex marriage licenses, it raised an interesting affirmative defense — that the rally was actually a “religious assembly.” But the event did not appear to follow any recognizable religious service, says Thomas Orofino of Sedgwick LLP.

WILD WEST OF INSTAGRAM: THE QUICK (#REPOST) AND THE DEAD (COPYRIGHT)
via Lexology by Paul Johns & Megan Hutchison on 3/18/2016
URL: http://www.lexology.com/library/detail.aspx?g=3e413704-5c4c-43f7-be17-def67e2027b7

Two current cases in the United States, a class action lawsuit and recently filed complaint, have brought to the fore serious copyright issues for ...

SPOTIFY, MUSIC PUBLISHERS REACH DEAL OVER SONG ROYALTIES
URL: http://www.law360.com/ip/articles/773323

Music streaming service Spotify USA Inc. and the National Music Publishers Association have reached a landmark deal that will allow independent music publishers to claim royalties for songs used on Spotify where ownership information was previously unknown, the NMPA announced on Thursday.

9TH CIRCUIT REVISITS DANCING BABY COPYRIGHT CASE: NO FAIR USE VIA ALGORITHM
via Ars Technica by Joe Mullin on 3/18/2016

In a sharp dissent, one judge argues EFF should win its case immediately.
PRINCESS CRUISES FACES LAWSUIT OVER BARRY MANILOW CONCERT BROADCASTS
via THR, Esq. by Ashley Cullins on 3/18/2016

The cruiseliner has been accused of copyright infringement, among other complaints.

SPOTIFY AND ARTISTS ARE PLAYING A NEW TUNE
via WSJ.com: WSJD by Hannah Karp on 3/18/2016
URL: http://www.wsj.com/articles/spotify-and-musicians-are-playing-a-new-tune-1458293400

While Spotify doesn’t follow the old playbook of accepting monetary incentives from musicians seeking more visibility on its music-streaming service, it does want something from them in exchange: their labor.

WILL PAUL MCCARTNEY GET THE RIGHTS TO HIS BEATLES SONGS BACK? HE'S ALREADY WORKING ON IT
via Billboard by Ed Christman on 3/18/2016

15, 2015, McCartney filed a termination notice of 32 songs with the U.S. Copyright Office. Additionally, another source confirmed that he has filed ...

PRINCESS CRUISES FACES LAWSUIT OVER BARRY MANILOW CONCERT BROADCASTS
via Billboard by Ashley Cullins on 3/18/2016

Stiletto Entertainment "exists to manage Barry Manilow's affairs, owns the Manilow trademark and commissioned the copyrighted work Music and ..."

PATENT AND COPYRIGHT LAWS CAN HELP YOU WIN REDRESS WHEN WRONGED
via The Japan Times by Yuko Yamashita on 3/20/2016
URL: http://www.japantimes.co.jp/community/2016/03/20/how-tos/patent-copyright-laws-can-help-win-redress-wronged/#.Vu9GonqbCoE

I have a problem regarding misleading information on a home page, confusing labels and the use of my intellectual property rights on some products.
NOBODY PUTS COPYRIGHT CLAIMS IN THE CORNER
via IP Brief by Emily Chau on 3/20/2016
URL: http://www.ipbrief.net/2016/03/20/nobody-puts-copyright-claims-in-the-corner/

On March 14, 2016, California federal judge Dean Pregerson dismissed Lions Gate Entertainment Inc.'s (“Lionsgate”) trademark claims against TD ...

PAUL MCCARTNEY LAUNCHES BID TO GET BACK HIS BEATLES SONGS
via BBC News by Mark Savage on 3/21/2016

While Sir Paul's motion to terminate copyright is likely to be successful, Lennon's share in the Beatles' songs will not return to his estate. Yoko Ono ...

"BALLERS" PRODUCERS DWAYNE JOHNSON, MARK WAHLBERG AND HBO SUED OVER COPYRIGHT INFRINGEMENT
via Lawyer Herald on 3/21/2016

Actor Dwayne Johnson speaks onscreen during the 'Ballers' panel discussion at the HBO portion of the 2015 ...

THE LEGAL BATTLE OVER THIS MONKEY'S SELFIE IS FAR FROM OVER
via The Daily Dot by Cynthia McKelvey on 3/21/2016
URL: http://www.dailydot.com/politics/monkey-selfie-appeals-copyright-case/

The saga of the monkey selfie is apparently far from over. Seeking to have the photo's copyright transferred to the primate himself, PETA is now filing ...

GOOGLE ROW EXPOSES DIGITAL FAIR USE SPLIT, HIGH COURT HEARS
URL: http://www.law360.com/ip/articles/773780

The Authors Guild has rebutted Google’s argument to the U.S. Supreme Court that its book search project was allowable under fair use rules, saying the Internet giant’s reply brief in support of a Second Circuit decision glossed over the extent of the service’s reproductions in order to downplay a circuit split.
SEX, LIES, AND THE FIRST AMENDMENT (BUT NO COPYRIGHT): HULK HOGAN'S LEG DROP ON GAWKER
via Lexology by Dominic A. Gentile on 3/21/2016
URL: http://www.lexology.com/library/detail.aspx?g=720b0d99-ec82-417b-b17c-48ee4b4698e9

On Friday night, a Florida jury delivered a stunning verdict in Hulk Hogan's lawsuit against Gawker Media LLC and its sundry entities, awarding the ...

PETA APPEALS 'MONKEY SELFIE' DEFEAT TO 9TH CIRC.
URL: http://www.law360.com/ip/articles/774091

People for the Ethical Treatment of Animals on Sunday said that it will appeal to the Ninth Circuit after a federal judge dismissed the group’s lawsuit claiming that an ape could sue for copyright infringement over a famed "monkey selfie."

INSURER SLAMS BID FOR $63M IN COPYRIGHT DISPUTE
URL: http://www.law360.com/ip/articles/773944

Mid-Continent Casualty Co. is fighting to uphold a magistrate's recommendation to toss a suit seeking $63 million from the insurer, telling a Texas federal judge Friday the architecture firm trying to collect the big payout is making unfounded arguments.

PAUL MCCARTNEY IS TRYING TO GET BACK THE RIGHTS TO HIS BEATLES SONGS
via Fortune by Valentina Zarya on 3/21/2016
URL: http://fortune.com/2016/03/21/paul-mccartney-beatles-songs/

While Sony now owns the rights to all songs in the catalog, the U.S. Copyright Act of 1976 gives songwriters the ability to reclaim ownership of their ...

MD. LAW FIRM DUCKS $350M IP SUIT BY UNHAPPY HUSBAND
URL: http://www.law360.com/ip/articles/774049

Joseph Greenwald & Laake PA on Monday escaped a $350 million suit accusing the firm of illegally copying computer source code owned by the husband of a divorce client when a Maryland federal judge found the case was launched by the husband solely to gain leverage over his estranged wife.
EBAY, OTHERS TRY NEW ATTACK ON CALIF. ART RESALE LAW
URL: http://www.law360.com/ip/articles/774533

EBay, Christie's Inc. and Sotheby's Inc. told a California federal judge on Monday that a Golden State law requiring artists to receive a cut of resale profits is preempted by the Copyright Act, trying a new legal tack after the Ninth Circuit refused to entirely strike down the law in May.

WIFI PROVIDERS NOT LIABLE FOR COPYRIGHT INFRINGEMENT BY USERS
via Lexology by Davinia Brennan on 3/22/2016
URL: http://www.lexology.com/library/detail.aspx?g=219d2792-7880-497e-a4f5-08ac24a0d359

On 16 March 2016, the Advocate General (AG) delivered an Opinion, in McFadden v Sony Music Entertainment Germany GmbH Case-484/14, that a ...

REPOSTING 8-SECOND SPORTS CLIPS INFRINGES COPYRIGHT
via The Register by Andrew Orlowski on 3/22/2016
URL: http://www.theregister.co.uk/2016/03/22/fanatix_copyright_ruling/

The High Court of England and Wales has ruled against an app developer who encouraged users to post eight-second sports clips under the guise ...

TV PROGRAM ROYALTY SPLIT WAS ARBITRARY, MINISTRIES TELL DC CIRC.
URL: http://www.law360.com/ip/articles/774431

A group of ministries that own religious TV program copyrights told the D.C. Circuit Monday that the Copyright Royalty Board made a clear error in choosing a method for distributing cable TV royalties, urging the court to send the issue back to fix the calculation.

9TH CIRCUIT REVISITS DANCING BABY, EDITS OUT ROBO-SCREENING
via FindLaw News for Legal Professionals by Jonathan R. Tung, Esq. on 3/22/2016

The issue of baby Holden and his viral "dancing baby" is still kicking and making waves in the world of the fair-use debate. The ruling last year was technically a win for free-use proponents, but it could hardly have been called a knock out of the park. The Ninth Circuit......
ORACLE SUES HP ENTERPRISE OVER COPYRIGHT INFRINGEMENT CLAIMS
via BloombergBusiness by Joel Rosenblatt on 3/22/2016

Oracle said in a statement that it's already won a judgment against Terix Computer Co. for misappropriating software and that HP Enterprise was a ...

ORACLE HITS HP WITH SOFTWARE SUIT AFTER $57.7M TERIX WIN
URL: http://www.law360.com/ip/articles/774995

Oracle America Inc. filed a California federal suit Tuesday accusing Hewlett Packard Enterprise Co. of conspiring to distribute copyrighted Oracle software code through tech-support companies including Terix Computer Co. Inc., which previously paid $57.7 million to resolve a similar Oracle suit.

FACEBOOK REMOVES VIDEO OF GIRL DANCING TO AN ALVIN AND THE CHIPMUNKS SONG BECAUSE IT BREACHED ...
via Daily Mail by Emily Crane on 3/22/2016
URL: http://www.dailymail.co.uk/news/article-3505262/Facebook-removes-video-girl-dancing-Alvin-Chipmunks-song-breached-copyright.html

Posting copyrighted content without permission might be a violation of the law. If you've already posted it, you should remove it from Facebook,' the ...

ORACLE AND HEWLETT PACKARD HEAD BACK TO COURT
via WSJ.com: WSJD by Jay Greene on 3/22/2016

Oracle is suing Hewlett Packard Enterprise over its partnership with Terix Computer Co., a third-party seller of support for the Solaris operating system.

ORACLE WINDS UP LEGAL MACHINE, LOBS COPYRIGHT LAWSUIT AT HPE
via ITworld News by James Niccolai on 3/22/2016

Oracle has filed a copyright infringement lawsuit against Hewlett Packard Enterprise, claiming it was part of an illegal scheme to sell Solaris support services to Oracle customers.
HIGH COURT: EIGHT SECONDS CAN BE INFRINGEMENT
via IPPro by Mark Dugdale on 3/23/2016
URL: http://ipprotheinternet.com/ipprotheinternetnews/copyrightarticle.php?article_id=4842

The High Court of England and Wales has ruled that an app's use of eight-second clips captured from copyrighted broadcasts constitutes infringement.

SOUTH AFRICA: NEW PROMINENT PRO-IP ACADEMIC COMES OUT AGAINST GOVERNMENT

The new Anton Mostert Chair of Intellectual Property Law at the University of Stellenbosch in South Africa, Professor Sadulla Karjiker, has pointed a finger at the country’s Department of Trade and Industry (DTI) for being “unresponsive” to stakeholders offering their input into proposed IP legislation.

VIRGINIA GOP SETTLES COPYRIGHT LAWSUIT BROUGHT BY ON-LINE PUBLISHER

Valerie Garner, publisher of the Roanoke Free Press website, has settled her copyright lawsuit against the Virginia Republican Party related to the unauthorized use of a photograph she took of Delegate Sam Rasoul. This photograph was the subject of prior litigation between Garner and a political blogger who used the same photograph on his website. In 2015, Judge Conrad issued an opinion denying the blogger's motion to dismiss based on the fair use doctrine.

MAINTAINING A WALL AROUND U.S. INTELLECTUAL PROPERTY: FEDERAL CIRCUIT SAYS DISPUTES OVER U.S. PATENTS, TRADEMARKS AND COPYRIGHTS SHOULD BE DECIDED BY U.S. COURTS

JUDGE REJECTS FILM PRODUCER'S BID TO HAVE BUCK ROGERS CHARACTER DECLARED IN PUBLIC DOMAIN
via THR, Esq. by Eriq Gardner on 3/23/2016

Don Murphy can only clear rights if he potentially violates them first.

WHAT IS INTELLECTUAL PROPERTY, AND WHY IS IT IMPORTANT? [SLIDES]

Intellectual Property 101: What's the difference between trademarks and copyrights? What's trademark clearance? How does the federal trademark application process work? This deck gives entrepreneurs the “need-to-know” information about trademarks, copyrights, patents and trade secrets.

PETA ISN’T MONKEYING AROUND WITH COPYRIGHT OWNERSHIP RIGHTS
URL: http://www.natlawreview.com/article/peta-isn-t-monkeying-around-copyright-ownership-rights

As we reported in a recent post, PETA lost its efforts, on behalf of Naruto the monkey, to secure his claim to copyright ownership of his “selfie” photograph. The district court judge held that the copyright law did not recognize an animal’s right to own a copyright. PETA is not, however, deterred, and it has filed an appeal of this decision to the US Court of Appeals for the Ninth Circuit.

4/15: COPYRIGHT REALIGNMENT: UPDATING COPYRIGHT LAW FOR THE 21ST CENTURY AT U. BALTIMORE
via LATEST NEWS on 3/23/2016
URL: http://www.csusa.org/news/281209/

The Center for the Law of Intellectual Property and Technology at the University of Baltimore will hold its 2016 symposium on April 15, 2016.
DONALD TRUMP CAMPAIGN ATTACKED BY NATURE PHOTOGRAPHERS IN COPYRIGHT LAWSUIT
via THR, Esq. by Eriq Gardner on 3/24/2016

The presidential candidate's use of an "iconic" eagle portrait leads to a complaint over "viral infringement." 

CANADIAN GOVERNMENT EARMARKS NEARLY $1.9 BILLION FOR CULTURE AND THE ARTS IN NEW BUDGET
via Billboard by Karen Bliss on 3/24/2016

In 2014 the web giant tweaked its search result algorithm to lower the rankings of sites that receive an outsize number of copyright complaints.

WHY DOES GOOGLE LOVE PIRACY?
via The Illusion of More by David Newhoff on 3/24/2016
URL: http://illusionofmore.com/google-love-piracy/

In yesterday’s post, I referred to the Android-based service called Google Now, which is about as close as your mobile device comes (so far) to reading your mind and anticipating your wants and needs. By gathering data from contacts, emails, …

BRITISH MUSIC LABELS DEMAND 'NOTICE AND STAY DOWN' PIRACY POLICY FROM GOOGLE
via The Guardian by Stuart Dredge on 3/24/2016
URL: http://www.theguardian.com/technology/2016/mar/24/bpi-british-music-labels-piracy-policy-google

... 2011 under the search engine's “notice and takedown” policy, where it removes individual links when notified by copyright holders. The BPI said in a …

GOOGLE TELLS 2ND CIRC. VIDEO SEARCH IS FAIR USE
URL: http://www.law360.com/ip/articles/775536

Google Inc. on Wednesday jumped into the closely-watched Second Circuit copyright fight between media-monitoring service TV Eyes Inc. and Fox News Network, pressing the court to “reaffirm” that search providers are protected by fair use.
ABA Copyright Division
http://apps.americanbar.org/dch/committee.cfm?com=PT030000

JUDGE LETS 54 SUDANESE REFUGEES PURSUE COPYRIGHT AND FRAUD CLAIMS OVER REESE WITHERSPOON FILM
via THR, Esq. by Eriq Gardner on 3/24/2016
URL: http://www.hollywoodreporter.com/thr-esq/judge-lets-54-sudanese-refugees-878021

A judge says that what was said in taped interviews — later used as source material for a script — is creative enough.

ANOTHER JUDGE SAYS FILMON CAN'T USE COMPULSORY LICENSE
URL: http://www.law360.com/ip/articles/775624

An Illinois federal judge ruled Wednesday that streaming services like FilmOn X don't qualify for a compulsory license to stream copyrighted content, the latest judge to pick a side on the tricky issue.

ORACLE DETAILS PROPOSAL TO SEARCH JURORS' FACEBOOK POSTS
URL: http://www.law360.com/ip/articles/775683

Oracle America Inc. told a California federal judge on Thursday that if it is allowed to check Facebook accounts belonging to potential jurors in its copyright infringement suit against Google Inc., it would only do so using public Internet search engines.

AN EIGHT-SECOND CLIP CAN BE A SUBSTANTIAL PART OF A BROADCAST/FILM
via Lexology by Nick Aries & Will Smith on 3/25/2016
URL: http://www.lexology.com/library/detail.aspx?g=e617b503-8972-4c7d-8ddf-cd0f741248cf

England and Wales Cricket Board and Sky UK Limited vs Tixdaq Limited and Fanatix Limited – High Court finds that copyright in a broadcast of a ...

SIXTH CIRCUIT SAYS YES TO THE DRESS
via Inside Counsel by Scott Slavick on 3/25/2016
URL: http://www.insidecounsel.com/2016/03/25/sixth-circuit-says-yes-to-the-dress

Star Athletica LLC that decorative designs used on cheerleading uniforms can be copyrighted (Case No. 14-5237). The panel, reviving the plaintiff's ...
THE MOST IMPORTANT OBAMA NOMINEE NO ONE'S TALKING ABOUT
URL: https://www.washingtonpost.com/news/act-four/wp/2016/03/25/the-most-important-obama-nominee-no-ones-talking-about/

Register of Copyrights Maria Pallante has openly advocated for the move, citing “operational tensions.” She argues that the library performs a ...

GOOGLE, ORACLE ASKED NOT TO SCOUR JURORS' SOCIAL MEDIA
URL: http://www.law360.com/ip/articles/776399

A California federal judge on Thursday asked Google and Oracle America Inc. to voluntarily refrain from “scouring” potential jurors' social media accounts before and during an upcoming copyright infringement trial, issuing strong arguments against such invasive searches but declining to order an outright ban.

JUDGE WON'T RECUSE HIMSELF FROM SPORTS PHOTO IP SUIT
URL: http://www.law360.com/ip/articles/776112

A Wisconsin federal judge determined Thursday that there's no need for him to recuse himself from copyright litigation between two sports photographers and a retailer represented by a law firm he once worked at.

EXETER UNIVERSITY RESEARCHERS TO EXPLORE ANTI-PIRACY LICENSING PLATFORM FOR 3D PRINTABLE OBJECTS
via 3ders by Alec on 3/27/16
URL: http://www.3ders.org/articles/20160327-exeter-university-researchers-to-explore-anti-piracy-licensing-platform-for-3d-printable-objects.html

This latest effort by the University of Exeter can be seen as part of that trend, but then one that goes beyond toys to tackle piracy and copyright issues ...
WHO CAN CLAIM IT? RIGHT TO RECLAIM CASES SHED LIGHT ON COPYRIGHT ADVANTAGE FOR AUTHORS
via IP Brief by Nicole Daley on 3/27/16
URL: http://www.ipbrief.net/2016/03/27/who-can-claim-it-right-to-reclaim-cases-shed-light-on-copyright-advantage-for-authors/

Renewal and termination rights in copyright law are a source of confusion. Understanding when an author has the right to recapture a copyright once ... 

TOOTHLESS COPYRIGHT LAWS A BANE FOR PUBLISHERS IN PAKISTAN
via Pakistan Today by Arshad Hussain on 3/27/16

Oxford University Press Pakistan (OUP) Managing Director Ameena Saiyid has said that piracy – violation of Intellectual Property Rights (IPR) – is ...

VIRTUAL REALITY MAY CREATE NOVEL IP ISSUES IN THE REAL WORLD
URL: http://www.law360.com/ip/articles/769479

Within a couple of years, the types of uses for virtual reality will change dramatically. Users will be able to tour a virtual version of the house they are considering buying, and friends from around the world will hang out with each other in virtual bars. With the rise of virtual worlds comes a number of questions about how different parties are going to create, use and enforce their trademarks and copyrights, says Jonathan Purow of Gottlieb Rackman & Reisman PC.

JUDGE DOESN'T WANT GOOGLE TO GOOGLE THE FAVORITE BOOKS AND SONGS OF POTENTIAL JURORS
via THR, Esq. by Eriq Gardner on 3/28/2016
URL: http://www.hollywoodreporter.com/thr-esq/judge-doesnt-want-google-google-878548

In a big copyright trial, a federal judge confronts a privacy dilemma.

MCDONALD’S ACCUSED OF USING GRAFFITI DECOR WITHOUT CONSENT
URL: http://www.law360.com/ip/articles/776706

A Los Angeles-based graffiti and tattoo artist told a California federal judge Friday that McDonald’s Corp. used a copy of his work for display in its restaurants across Europe and Asia without consent, damaging his reputation and causing him to lose sponsors.
WILEY TELLS HIGH COURT REASONABLENESS IS OK FEE STANDARD
URL: http://www.law360.com/ip/articles/776519

Publisher John Wiley & Sons has urged the U.S. Supreme Court to reject a foreign textbook reseller’s bid for attorney’s fees, saying the reseller’s David-and-Goliath portrayal of his copyright fight with Wiley shouldn’t overshadow the fact that the publisher’s arguments were reasonable.

USHER ASKS 3RD CIRC. TO BACK 'BAD GIRL' COPYRIGHT SUIT WIN
URL: http://www.law360.com/ip/articles/776586

Rhythm and blues artist Usher, Sony Music Entertainment Inc. and others urged the Third Circuit on Friday to affirm the dismissal of a suit over the singer’s track “Bad Girl,” arguing a songwriter is trying to reinvent his copyright suit on appeal.

CAMERON AGAIN BEATS FANTASY WRITER'S 'AVATAR' THEFT SUIT
URL: http://www.law360.com/ip/articles/776685

A California appeals court on Friday refused to revive a fraud suit claiming that director James Cameron ripped off the idea for "Avatar," finding insufficient similarities between the highest-grossing film of all time and a writer’s science fiction story.

NBC, ICE CUBE DODGE BULK OF $110M ‘COMPTON’ SUIT FOR NOW
URL: http://www.law360.com/ip/articles/776839

A California federal judge Monday tentatively dismissed most of ex-N.W.A. manager Gerald Heller’s $110 million lawsuit alleging NBCUniversal, Ice Cube and others cribbed his memoir and and slandered him through his portrayal as a "sleazy manager" in "Straight Outta Compton," but said Heller could try again with more specific allegations.

TURTLES ADD SUSMAN GODFREY TO SIRIUS PRE-1972 ROYALTIES ROW
URL: http://www.law360.com/ip/articles/777037

Rock band The Turtles asked a California federal judge Monday to approve the addition of Susman Godfrey LLP as co-counsel in a class action seeking royalty payments from Sirius XM Radio Inc. for thousands of pre-1972 recording artists.
GOOGLE AND ORACLE MUST DISCLOSE MINING OF JURORS’ SOCIAL MEDIA
via Law Blog by Jacob Gerhsman on 3/28/2016

Internet research by jurors is a common concern for judges. In a high-stakes copyright fight between two Silicon Valley giants, it's Internet research on jurors that's drawing particular scrutiny from the court.

STAR TREK’ LAWSUIT NOW EXPLORES WHAT VULCANS AND VAMPIRES HAVE IN COMMON
via THR, Esq. by Eriq Gardner on 3/29/2016

Plus, the 19th-century Supreme Court case that is being called upon to knock the contention that the language of Klingon is copyrighted.

ORACLE WANTS $8.8B FROM GOOGLE IN JAVA COPYRIGHT CASE
URL: http://www.law360.com/ip/articles/777396

Oracle Corp. could be seeking as much as $8.8 billion in a looming jury trial over Google Inc.’s alleged infringement of software copyrights in its Android operating system, according to new court documents.

POLICING THE PIRATES: 30% OF TAKEDOWN REQUESTS ARE QUESTIONABLE (STUDY)
via Variety by Brent Lang on 3/29/2016

Roughly 30% of requests to takedown copyrights material are of questionable validity, according to a new study by the University of California, ...
A new low-power, "brain-inspired" supercomputing platform based on IBM chip technology will soon start exploring deep learning for the U.S. nuclear program.

The company will ask another jury to make Google pay the biggest IP verdict ever.

At times I wish I knew everything about the cases I follow that the litigators working on them know, but it's possible that at times they wish they had the liberty to be as consistent in their positions on policy as an independent blogger--more independent than ever since I started the blog--can afford to be.

... the Northern District of California rejected PETA's claim and stated that any copyright ownership by animals is a matter for Congress, not the courts.

Capturing a Snapchat picture message and forwarding it on without consent could land the sender in jail under copyright charges, the UK culture...
FILMON BLASTS 'Luddite' TV BROADCASTERS AT 9TH CIRC.
URL: http://www.law360.com/ip/articles/777770

FilmOn X pressed the Ninth Circuit on Monday to rule that Internet streaming services deserve the same automatic copyright license as traditional cable companies, calling opposition from television broadcasters a “Luddite argument” that “should be relegated to the history books.”

WEB TV COMPANY NOT ENTITLED TO LICENSE TO STREAM CONTENT
via Bloomberg BNA by Alexis Kramer on 3/30/2016
URL: http://www.bna.com/web-tv-company-n57982069213/

FilmOn X, subsequent to that decision, argued a different theory: that the retransmission of copyrighted works is authorized under the compulsory ... 

INSTAGRAM SUED BY PHOTOGRAPHER OVER COPYRIGHT CLAIMS
via Billboard by Gil Kaufman on 3/30/2016

An attendee takes a photo of the Instagram logo during a press event at Facebook headquarters on June 20, 2013 in Menlo Park, Calif.

ALLEGEDLY INFRINGING AD CAMPAIGN: TRADEMARK CLAIMS PREEMPTED BY COPYRIGHT
via Lexology by David O. Klein on 3/30/2016
URL: http://www.lexology.com/library/detail.aspx?g=3f3db832-4e21-4cb3-87ef-b04b7cdcd7ec

Nobody puts Lions Gate Entertainment Inc.'s (“Lions Gate”) Dirty Dancing brand in a corner – except for a California federal district court and an ... 

JUDGE ALLOWS SUIT BY REFUGEES CLAIMING COPYRIGHT...
via ABA Journal by Debra Cassens Weiss on 3/30/2016

In a March 22 decision (PDF), U.S. District Judge Leigh Martin May allowed a copyright claim stemming from their taped interviews and said it could, ...
LOCAL BAR SUED OVER SONGS THAT BANDS PLAYED
via Southeast Missourian by Ben Kleine on 3/30/2016
URL: http://www.semissourian.com/story/2291003.html

Longshots was sued by Broadcast Music Inc., which holds performance rights to 8.5 million copyrighted musical compositions, and 13 other plaintiffs ...

US TECH INDUSTRY ASSOCIATIONS ENDORSE TPP
URL: http://www.ip-watch.org/2016/03/31/us-tech-industry-associations-endorse-tpp/

A number of internet and software industry in the United States have come out in support of the Trans-Pacific Partnership (TPP) negotiated by the Office of the US Trade Representative (USTR) last year.

ORACLE, GOOGLE OK INTERNET BLACKOUT FOR JURY SELECTION
via Law.com - Newswire by Ross Todd on 3/30/2016
URL: http://www.law.com/sites/articles/2016/03/31/oracle-google-ok-internet-blackout-for-jury-selection/

Lawyers for the two companies agreed Thursday to go along with Judge William Alsup's ban on web research into potential and empaneled jurors.

GOOGLE OBJECTS TO ORACLE'S $8.8 BILLION CLAIM FOR JAVA TRIAL
via Bloomberg by Joel Rosenblatt on 3/30/2016
URL: http://www.bloomberg.com/news/articles/2016-03-31/google-objects-to-oracle-s-8-8-billion-claim-for-java-trial

In a 5 1/2-year-old lawsuit alleging that Google's Android infringed Oracle's copyrights for Java software, the database maker is pegging its damages ...

RUBBER DUCK ARTIST FLORENTIJN HOFMAN IN PLAGIARISM ROW WITH BRAZIL PROTESTERS
via BBC News by Ricardo Senra on 3/30/2016

But the design is similar to one by Dutch artist Florentijn Hofman, who told the BBC the Brazilian replica constitutes copyright infringement. The owner ...
GOOGLE-FUNDED STUDY ON COPYRIGHT TAKEDOWNS DROPS THE BALL
via Vox Indie by Ellen Seidler on 3/31/2016
URL: http://voxindie.org/google-funded-dmca-study-suspect/

Google-funded report generates desired headlines and conveniently downplays the role of DMCA counter-notices—ignoring fact the system is weighted against rights holders. A new report on the DMCA notice and takedown system, Notice and Takedown in Everyday Practice, was released yesterday. Co-authored by researchers at Berkeley Law and Columbia University (collaborators for The Takedown Project), the release is clearly timed to generate

“BATMOBILE” DECISION STANDS, AS US SUPREME COURT DENIES PETITION
via Lexology by Thomas Huthwaite on 3/31/2016
URL: http://www.lexology.com/library/detail.aspx?g=f49ba358-5119-4fdb-a61b-4c09ae147064

Secondly, a specific copyright exception appears to have been carved out for automobile designs, which are typically excluded from copyright ...

YOU'RE VIOLATING COPYRIGHT LAW EVERY TIME YOU SCREENSHOT A SNAPCHAT
via The Huffington Post by David Barden on 3/31/2016

“The person who owns the copyright in that [photo] will be the person who took the photograph unless they are doing it in the course of employment,” ...

FORDHAM IP CONFERENCE 2016 - DAY 1 LIVE!
URL: http://www.managingip.com/Article/3541920/Fordham-IP-Conference-2016-day-1-live.html

These discussions are in the end about the exclusive nature of copyright, she says, before being cut off by moderator Hugh Hansen, who asks her how ...

MUSIC INDUSTRY A-LISTERS CALL ON CONGRESS TO REFORM COPYRIGHT ACT
via THR, Esq. by Ashley Cullins on 3/31/2016
URL: http://www.hollywoodreporter.com/thr-esq/music-industry-a-listers-call-879718

A day before a crucial deadline, the music industry is pulling no punches.
GOOGLE WANTS EXPERT REPORT NIXED IN $8.8B COPYRIGHT CASE
URL: http://www.law360.com/ip/articles/778393

Google sought Wednesday to strike portions of the testimony offered by the court’s own damages expert for a looming jury trial over the company’s alleged $8.8 billion infringement of Oracle Corp. software copyrights, arguing that his opinions span “an extremely broad range” and are not supported by sufficient evidence.

IN “LOST BOYS” SUIT OVER 2014 MOVIE, JUDGE OKS NOVEL COPYRIGHT THEORY
via Reuters by Alison Frankel on 3/31/2016

Is an interview a creative collaboration between questioners and their subjects? And, if so, do interview subjects have copyrights?

CIRQUE DU SOLEIL SLAPS TIMBERLAKE WITH IP SUIT OVER SAMPLE
URL: http://www.law360.com/ip/articles/778982

Cirque du Soleil on Thursday launched a New York federal suit accusing Justin Timberlake, Universal, Sony and others of infringing one of the theatrical performance company's copyrights with his song "Don't Hold the Wall."

MUSIC INDUSTRY A-LISTERS CALL ON CONGRESS TO REFORM COPYRIGHT ACT
via Billboard by Ashley Cullins on 3/31/2016

“Among other issues, the Office will consider the costs and burdens of the notice-and-takedown process on large- and small-scale copyright owners, ...”

JUDGE SKEPTICAL THAT UMG HAD ORAL IP DEAL WITH MEDIA CO.
URL: http://www.law360.com/ip/articles/778626

Inflight entertainment provider Golden Eagle Entertainment argued to a skeptical California federal judge on Thursday that it did not willfully infringe on UMG Recordings Inc.’s copyrighted music, saying emails showed an oral agreement for use was in force until a written agreement was signed.
ROTTEN RECORDS SUES UNIDENTIFIED BITTORRENT USER FOR ALLEGED COPYRIGHT VIOLATION
via PennRecord.com by Annie Hunt on 3/31/2016
URL: http://pennrecord.com/stories/510704812-rotten-records-sues-unidentified-bittorrent-user-for-alleged-copyright-violation

Rotten Records Inc. seeks that the court permanently enjoin the defendant from continuing to infringe the copyrighted work, an order to remove the ...

VIDEO CREATORS ARE FRUSTRATED WITH FACEBOOK'S ANTIPIRATING EFFORTS
via Nasdaq on 3/31/16

Filmmaker Brady Haran uploaded a video to his science-focused YouTube channel showing what happens when you drop Lithium metal into 7 Up soda.

THE COSTS AND BENEFITS OF COPYRIGHT: GETTING THE FACTS STRAIGHT
via Hugh Stephens Blog on 3/31/16
URL: http://hughstephensblog.net/2016/03/31/the-costs-and-benefits-of-copyright-getting-the-facts-straight/

Last week I wrote about the exaggerated and wildly inaccurate claims made by opponents of copyright term extension in Canada regarding the supposed economic losses to the Canadian economy of extending the term of protection from 50 to 70 years.

HOW TO SEND A TAKEDOWN NOTICE TO GOOGLE IN 46 (OR MORE) EASY STEPS!
via Nova Southeastern University by Stephen Carlisle on 3/31/16
URL: http://copyright.nova.edu/takedown-notice-google/

As a postscript to the last blog post on DMCA takedown notices, I thought it might be helpful to understand what is involved in sending a takedown notice.
April 2016


Arguing that the copyright law in the United States intended to protect creative works while allowing access by the next creators is "broken", hundreds of top artists, songwriters, managers and music associations are urging reforms to the law. Top performers like Katy Perry and Christina Aguilera joined the call.

KATY PERRY, BILLY JOEL AND OTHER TOP ARTISTS PUSH FOR CHANGE TO US COPYRIGHT LAW via The Telegraph by David Lawler on 4/1/2016

Big name musicians including Katy Perry, Billy Joel and Rod Stewart are pushing for changes to a US copyright law that they claim robs them of ...

GOOGLE AND ORACLE AGREE NOT TO RESEARCH JURORS ONLINE AHEAD OF MAJOR TRIAL via Law Blog by Jacob Gershman on 4/1/2016
URL: http://blogs.wsj.com/law/2016/04/01/google-and-oracle-agree-not-to-research-jurors-online-ahead-of-major-trial/

The social media life and Internet activity of jurors can be a valuable resource for litigators, who routinely mine the world wide web for insights into the minds of the men and women they need to persuade. But two tech giants are swearing off the practice as they prepare to face off in a major copyright trial.

COPYRIGHT SCHOLARS: COURTS HAVE DISRUPTED THE DMCA’S CAREFUL BALANCE OF INTERESTS via CPIP by Devlin Hartline on 4/1/2016
URL: http://cpip.gmu.edu/2016/04/01/copyright-scholars-courts-have-disrupted-the-dmcas-careful-balance-of-interests/

The U.S. Copyright Office is conducting a study of the safe harbors under Section 512 of the DMCA, and comments are due today. Working with Victor Morales and Danielle Ely from Mason Law’s Arts & Entertainment Advocacy Clinic, we drafted and submitted comments on behalf of several copyright law scholars. In our Section 512 comments, … Continue reading Copyright Scholars: Courts Have Disrupted the DMCA’s Careful Balance of Interests ?
THOUSANDS OF ARTISTS DEMAND CHANGES TO DMCA EXPLOITATION
via Digital Music News by Charlotte Hassan on 4/1/2016
URL: http://www.digitalmusicnews.com/2016/04/01/riaa-400-artists-songwriters-managers-and-
music-organisations-plead-for-dmca-reforms/

Hundreds of music industry figures have joined forces to collectively petition to the U.S. Copyright Office for reforms to the current Digital Millennium ...

GOOGLE AND ORACLE BOTH SWEAR THEY WON’T GOOGLE JURORS IN
UPCOMING TRIAL
via Ars Technica by Joe Mullin on 4/1/2016
URL: http://arstechnica.com/tech-policy/2016/04/google-and-oracle-both-swear-they-wont-
goole-jurors-in-upcoming-trial/

Judge: "The jury is not a fantasy team composed by consultants."

MIDDLE CLASS ARTISTS WANT A DMCA SYSTEM THAT WORKS
via CPIP by Rebecca Cusey on 4/1/2016
URL: http://cpip.gmu.edu/2016/04/01/middle-class-artists-want-a-dmca-system-that-works/

Mason Law’s Arts & Entertainment Advocacy Clinic filed comments today with the U.S. Copyright Office detailing the frustrations and futilities experienced by everyday artists as they struggle with the DMCA system to protect their copyrights online.

GOOGLE, ORACLE TO STAY OUT OF JURORS' SOCIAL MEDIA IN IP TRIAL
URL: http://www.law360.com/ip/articles/779711

Google and Oracle each agreed on Thursday to refrain from researching potential jurors' social media accounts before and during an upcoming copyright infringement trial, a week after the California judge presiding over the closely watched case with potentially $8.8 billion at stake strongly advised against such invasive searches.

SHKRELI SAYS NO DIRECT INFRINGEMENT OF WU-TANG ALBUM ART
URL: http://www.law360.com/ip/articles/779544

Indicted pharmaceutical executive Martin Shkreli asked a New York federal court on Friday to cut him out of a copyright infringement suit over illustrations contained in a $2 million one-of-a-kind Wu-Tang Clan album he purchased, arguing he did not directly infringe the images.
US JUDGE REFUSES TO REVIVE SHAKIRA COPYRIGHT CASE, LEVIES SANCTIONS
via Reuters by Andrew Chung on 4/1/2016
URL: http://www.reuters.com/article/ip-shakira-ruling-idUSL2N17504V

Calling its newest arguments "nonsense," a federal judge in Manhattan refused to revive a New York music publisher's case against Sony Corp over ...

ASTROTURF ORGANIZATIONS TYPICALLY HYSTERICAL ON DMCA
via The Illusion of More by David Newhoff on 4/2/2016
URL: http://illusionofmore.com/astroturf-organizations-hysterical-dmca/

As the deadline approached for public comments to the Copyright Office in anticipation of its review of Section 512 of the DMCA, TorrentFreak reported yesterday morning that 50,000 “citizens” chimed in to protest DMCA “abuse,” apparently enough to “crash” the …

A SPIRITUAL SUCCESSOR TO AARON SWARTZ IS ANGERING PUBLISHERS ALL OVER AGAIN
via Ars Technica by David Kravets on 4/3/2016
URL: http://arstechnica.com/tech-policy/2016/04/a-spiritual-successor-to-aaron-swartz-is-angering-publishers-all-over-again/

Meet accused hacker and copyright infringer Alexandra Elbakyan.

DIGITAL RIGHTS GROUPS: DMCA REFORM SHOULD TARGET TAKEDOWN ABUSE, ERRORS
via Intellectual Property Watch by William New on 4/3/16

Advocacy groups supporting digital rights and access online joined rights holders and artists in calling for reform to the United States law intended to balance copyright protection with the free flow of information on the internet.

FEIST V. RURAL IN THE DIGITAL AGE
URL: http://cblr.columbia.edu/archives/13813

Web scraping, or spidering as it is more colorfully known, involves the automated gathering of data from a website. This data can then be used for analytic purposes, to direct web traffic (as Google does), to amalgamate information from different websites for easier access, or to provide many other, sometimes controversial, web-based services. With this highly efficient method for
gathering information, there is naturally a pushback from website owners to restrict mass collection and use of their published work. To […]

CHALLENGES IN COPYRIGHT, AT BALTIMORE
via IP and IT Conferences by Mike Madison on 4/3/2016
URL: http://madisonian.net/conferences/2016/04/03/challenges-in-copyright-at-baltimore/

For those of you who are in the Baltimore/DC on April 15, 2016, and have finished your taxes, I want to invite you to come to a copyright conference at the University of Baltimore. We’ve got some great speakers, including …

FEIST, AT AMERICAN WCL
via IP and IT Conferences by Mike Madison on 4/3/2016
URL: http://madisonian.net/conferences/2016/04/03/feist-at-american-wcl/


THREE-STRIKES PIRACY CODE SHOULD BE SHELVED FOR A YEAR: COMMS ALLIANCE CEO
via ZDNet by Corinne Reichert on 4/4/2016
URL: http://www.zdnet.com/article/three-strikes-piracy-code-should-be-shelved-for-a-year-comms-alliance-ceo/

Communications Alliance CEO John Stanton has said that internet service providers (ISPs) and copyright holders are working together to suggest that ...

MEET THE COMPANY WHICH WANTS TO STOP PIRATES USING THE WEB UNTIL THEY PAY UP
via ZDNet by Charlie Osborne on 4/4/2016

ISPs are often reluctant to get involved in cases of copyright theft and pirating for a number of reasons, including the idea that customers may turn …
JUSTIN BIEBER ATTORNEYS FIGHT TO SAVE THEIR EXPERTS AFTER MISSING DEADLINE IN COPYRIGHT LAWSUIT
via THR, Esq. by Eriq Gardner on 4/4/2016

The judge gets tough in a bid to make a trial happen by October.

COPYRIGHT Q&A
via Copyright Alliance by Rob Kasunic on 4/4/2016
URL: https://copyrightalliance.org/2016/03/copyright_qa

We asked creators to submit questions about the copyright registration process. Rob Kasunic, Director of Registration Policy and Practices at the United States Copyright Office, answered the questions and today we are starting a series of Q&As providing clarity about the process.

VANCOUVER AQUARIUM WINS INJUNCTION AGAINST CRITICAL FILMMAKER
via CBCNews by Jason Prodox on 4/4/2016

Charbonneau claims any use of the allegedly copyrighted material in the film is ... He claims he was also covered by the Copyright Act because use of ...

NINTH CIRCUIT AMENDS OPINION TO BROADEN FAIR USE PROTECTIONS IN DMCA TAKEDOWNS
via JOLT Digest by Ken Winterbottom on 4/4/2016

Ninth Circuit Amends Opinion to Broaden Fair Use Protections in DMCA Takedowns By Sheri Pan – Edited by Henry Thomas Lenz v. Universal Music, the “dancing baby” copyright case, was decided in 2015. However, in March of 2016, the 9th Circuit issued an amended opinion. The changes removed language – mostly dicta – from the original opinion, seemingly raising the bar for copyright holders. Importantly, language suggesting that rightsholders need not conduct a “searching or intensive” review of potential fair use defenses was removed.
WIKIMEDIA'S FREE PHOTO DATABASE OF ARTWORKS VIOLATES COPYRIGHT, COURT RULES
URL: http://www.theguardian.com/world/2016/apr/05/wikimedias-free-photo-database-of-artworks-violates-copyright-court-rules

The Swedish supreme court has rules mass distribution of free photos of artwork violates artist's copyright. Photograph: Brendan Smialowski/AFP/Getty ...

HONG KONG GOV'T AGREES TO KILL CONTROVERSIAL COPYRIGHT BILL
via Variety by Patrick Frater on 4/5/2016

The Hong Kong government has agreed to approve an opposition motion to end debate on a new copyright law. The motion is to be voted through on ...

EA PULLS DONALD TRUMP FAN ELECTION CAMPAIGN VIDEO OVER COPYRIGHT INFRINGEMENT
via BBC on 4/5/2016
URL: http://www.bbc.co.uk/newsbeat/article/35967510/donald-trump-fan-election-campaign-video-pulled-over-ea-copyright-infringement

Donald Trump has had to remove a tweet promoting a parody of the video game Mass Effect after makers EA complained it infringed their copyright.

WIKIMEDIA SWEDEN ART MAP 'VIOLATED COPYRIGHT'
via BBC on 4/5/2016

A website documenting public artworks in Sweden violated copyright laws, the country's supreme court has ruled. Visitors to the Öffentlig Konst site ...

TO THE BATMOBILE!
URL: http://www.fordhamiplj.org/2016/04/05/to-the-batmobile/

Batman once told his sidekick Robin, “In our well-ordered society, protection of private property is essential.” But how far does this protection extend? On Monday, March 7th, the United States Supreme Court decided not to review an appeal of the Ninth Circuit case testing the bounds of
copyright protection. The case affirmed that Batman’s mobile crime fighter, the Batmobile, is a copyrightable character and entitled to copyright protection.

WHAT GOOGLE'S APRIL FOOLS' DAY SNAFU SAYS ABOUT SOFTWARE COPYRIGHTS
via Slate by Charles Duan on 4/5/2016
URL: http://www.slate.com/blogs/future_tense/2016/04/05/what_google_s_april_fools_day_snafu_say s_about_software_copyri.html

If I learned something from April Fools' Day last week, it is that the fastest way to send humanity into chaos and confusion is by swapping the forward ...

PRE-1972 SONG OWNERS ATTACK CBS' 'REMASTER' DEFENSE
URL: http://www.law360.com/ip/articles/780605

Rights holders suing CBS Radio over pre-1972 songs urged a federal judge Monday to reject the novel defense that “remastered” songs weren’t technically recorded before 1972, warning that such a rule would “extend copyright protection indefinitely.”

MADONNA, WARNER MUST REPLAY 'VOGUE' IP SUIT, 9TH CIRC. TOLD
URL: http://www.law360.com/ip/articles/779682

The owner of Salsoul Records' catalog urged the Ninth Circuit Tuesday to revive its suit alleging Madonna and Warner Music Group illegally sampled a Salsoul-owned song for the pop star's 1990 hit “Vogue,” arguing sampling even a single horn chord is copyright infringement.

THE LEGALITY OF SELLING "USED" DIGITAL SONGS AND MOVIES HEADED TO APPEALS COURT
via THR, Esq. by Eriq Gardner on 4/6/2016

ReDigi strikes a deal to avoid facing Capitol Records at trial next week, but now, it gets really interesting.
MARTIN SHKRELI'S LAWYER ARGUES FAIR USE IN COPYRIGHT LAWSUIT OVER ART WITHIN WU-TANG RECORD
via Billboard by Gil Kaufman on 4/6/2016

Martin Shkreli, former CEO Turing Pharmaceuticals, photographed during a House Oversight and Government Reform Committee in Washington, D.C. ...

ORACLE V GOOGLE JUDGE WEIGHS FAIR USE 'ALTERNATE UNIVERSE'
URL: http://www.law360.com/ip/articles/781437

The judge set to oversee next month’s $8 billion copyright trial between Oracle and Google wants to know whether he should consider “an alternate universe” when weighing one of the fair use doctrine’s key factors.

INTERNET HYPERLINKS DO NOT INFRINGE COPYRIGHT, EU COURT ADVISED
via Reuters on 4/7/2016
URL: http://www.reuters.com/article/us-internet-copyright-eu-court-idUSKCN0X40UU

While European Union rules say every act of communication of a copyrighted work has to be cleared by the copyright owner, it would be to the ...

INTERNET HYPERLINKS DO NOT INFRINGE COPYRIGHT'
via The Times of India on 4/7/2016

A link to a website which publishes photos without authorisation of the author does not in itself constitute a copyright infringement, ...

EU LAWYER SIDES AGAINST PLAYBOY IN HYPERLINKS CASE
via BBC by Chris Baraniuk on 4/7/2016

An advocate general has now sided with the case of GS Media, against a claim of copyright infringement filed by Playboy's publisher. The pictures ...
STOP THE MADNESS OF IP THEFT IN SPORTS
via Global Intellectual Property Center by Kathryn Sullivan on 4/7/2016

Sports are more than a mere pastime or entertainment. Like many other diverse industries, it relies on a key ally in order to be able to bring fans the sporting events and programming they demand: intellectual property rights.

FAIR USE PREVAILS FOR UNIVERSITY
via IP Pro by Tammy Facey on 4/7/2016
URL: http://ipprotheinternet.com/ipprotheinternetnews/copyrightarticle.php?article_id=4864

Georgia State defended its use of the texts, holding that under fair use, it is allowed to make small excerpts of copyrighted books available to students ...

A WHALE OF A (COPYRIGHT) TALE: AN UPDATE
via Hugh Stephens Blog on 4/7/2016
URL: http://hughstephensblog.net/2016/04/07/a-whale-of-a-copyright-tale-an-update

A few weeks ago I posted a blog about a lawsuit filed by the Vancouver Aquarium against film-maker Gary Charbonneau for copyright infringement. Charbonneau had made a film critical of the Aquarium’s cetacean (whale, porpoise and dolphin) rehabilitation program, in which he had used, without permission, copyrighted material from the Aquarium’s website in his […]

PUBLISHERS SEEK TO STOP BRAVE BROWSER AD-BLOCKING TOOL
via WSJ.com: WSJD by Lukas I. Alpert on 4/7/2016
URL: http://www.wsj.com/articles/publishers-seek-to-stop-brave-browser-ad-blocking-tool-1460065209

A group of newspaper publishers sent a cease-and-desist letter to Brave Software, the creator of a Web browser that features built-in ad-blocking software.

JUDGE FOULED IN 'CURVE' IP SUIT AGAINST WB, 9TH CIRC. HEARS
URL: http://www.law360.com/ip/articles/779700

A producer claiming that Warner Bros. cribbed from his script for its Clint Eastwood film "Trouble With the Curve” told the Ninth Circuit on Thursday that a California district court judge erred by disregarding expert testimony and deciding on her own the two stories weren’t substantially similar.
BEYONCE TAKES LEGAL ACTION AGAINST A TEXAS COMPANY OVER COPYRIGHT INFRINGEMENT TRADEMARK
via Lawyer Herald on 4/8/2016
URL: http://www.lawyerherald.com/articles/41512/20160408/beyonce-takes-legal-action-against-a-texas-company-over-copyright-infringement-trademark.htm

Recording artist Beyonce speaks onstage during The 58th GRAMMY Awards at Staples Center on February 15, ...

COPYRIGHT BOARD ISSUES LANDMARK DECISION IN K-12 SCHOOL PROCEEDING
via Lexology by J. Aidan O'Neill & Ariel A. Thomas on 4/8/2016
URL: http://www.lexology.com/library/detail.aspx?g=bde137ae-a2cd-4289-ae06-f8a9ec9a161d

In view of the magnitude of Access Copyright's loss before the Board, it is not surprising that, just as it did in response to the Board's May 2015 ...

EU CONSULTS ON “NEIGHBOURING RIGHTS” FOR PUBLISHERS AND “PANORAMA” COPYRIGHT EXCEPTIONS
via Intellectual Property Watch by Dugie Standeford on 4/8/2016
URL: http://www.ip-watch.org/2016/04/08/eu-consults-on-neighbouring-rights-for-publishers-and-panorama-copyright-exceptions/

The European Commission is considering giving publishers the same “neighbouring” rights currently available to broadcasters and producers of someone else's copyrighted content, it said in a 23 March consultation document. The inquiry is part of the EC's digital single market initiative to boost Europe's digital economy.

COPYRIGHT INFRINGEMENT SUIT FILED OVER MAPPLETHORPE PHOTOS
via ABC News on 4/8/2016
URL: http://abcnews.go.com/Entertainment/wireStory/copyright-infringement-suit-filed-mapplethorpe-photos-38246676

A photographer has filed a $65 million lawsuit against the Robert Mapplethorpe Foundation alleging he took the images of the late photographer in ...

HYPERLINKS DON'T INFRINGE COPYRIGHT, SAYS AG
via IP Pro by Tammy Facey on 4/8/2016
URL: http://ipprotheinternet.com/ipprotheinternetnews/copyrightarticle.php?article_id=4865

Hyperlinking to a website that has published copyright infringing photos is a not a 'communication to the public', an EU advocate general has opined.
HACKING DEMOCRACY: GOOGLE/YOUTUBE PROXY GROUP “FIGHT FOR THE FUTURE” CRASHES US COPYRIGHT OFFICE WEBSITE DURING CRUCIAL COMMENT PERIOD
via The Trichordist on 4/3/16
URL: https://thetrichordist.com/2016/04/03/hacking-democracy-google-youtube-proxy-group-fight-for-the-future-crashes-us-copyright-office-website-during-crucial-comment-period/

Torrent Freak is reporting that Google/YouTube proxy “Fight for the Future” generated a flood of automated “comments” that crashed the regulations.gov website Thursday.

TALKING COPYRIGHT AND THE DIGITAL SINGLE MARKET AT THE FORDHAM IP CONFERENCE
via LinkedIn by Stan McCoy on 4/7/16
URL: https://www.linkedin.com/pulse/talking-copyright-digital-single-market-fordham-ip-conference-mccoy

Many Europeans are skeptical of genetic modification when it comes to foods. Should they also be skeptical of genetic modification of … copyright laws? Maybe so.

DEMOCRACY DISRUPTED
via The Illusion of More by David Newhoff on 4/8/2016
URL: http://illusionofmore.com/democracy-disrupted/

A couple of posts ago, I reported that the organization Fight for the Future had facilitated enough comments sent to the Copyright Office regarding Section 512 of the DMCA that they “crashed” the servers. In a follow-up email brimming with … Continue reading?

LMFAO ESCAPES RICK ROSS COPYRIGHT SUIT OVER 'HUSTLIN''
URL: http://www.law360.com/ip/articles/782621

Electropop duo LMFAO was freed from a copyright lawsuit over its most famous song when a Florida federal judge ruled Friday that rapper Rick Ross and his producers didn’t have the copyright registration necessary to sue for a lyric pilfered from rap hit “Hustlin.”
GOOGLE'S INJUNCTION AGAINST MISSISSIPPI ATTORNEY GENERAL REVERSED BY APPEALS COURT
via THR, Esq. by Eriq Gardner on 4/8/2016
URL: http://www.hollywoodreporter.com/thr-esq/googles-injunction-mississippi-attorney-general-882238

The 5th Circuit tears up an order that prohibited Jim Hood from moving forward with an investigation of the web giant for making available pirated goods and content.

NEW ORACLE FILING MIGHT RESULT IN DAMAGES THEORY NORTH OF $10 BILLION IN GOOGLE COPYRIGHT CASE
via FOSS Patents by Florian Mueller on 4/9/2016

Last month there was quite some talk on the Internet about Oracle seeking $9.3 billion in damages from Google in the famous Android-Java copyright case that will go to trial again in a month, with the bulk of that amount ($8.8 billion) being a claim for disgorgement of infringer's profits.

COMMUNIST PARTY SEEKS TO COPYRIGHT RED STAR SYMBOL
via NPR on 4/9/2016
URL: http://www.npr.org/2016/04/09/473623505/communist-party-seeks-to-copyright-red-star-symbol

Russian Communist Party officials are attempting to copyright their party's symbol. But it's a symbol that's been trademarked by companies established ...

NIGHTCLUBS FACE COURT OVER COPYRIGHT MUSIC
via The Fiji Times Online by Matilda Simmons on 4/9/2016

FIVE nightclubs in Suva have been issued summons to appear in court for failure to pay licensing fees for the use of local composer's copyright music.

SUPREME COURT DE-NA-NA-NA-NA-NA-NA-NA-NA-NIES BATMOBILE APPEAL
via Copyhype by Terry Hart on 4/11/2016

Last month, the Supreme Court denied review of a cert petition in DC Comics v. Towle, regarding whether the Batmobile can be protected by copyright. This in itself isn’t news—the
Supreme Court only grants roughly 5% of all petitions it receives. But the subject matter of this litigation brought a fair amount of attention, so […]

JUDGE TOSSES RICK ROSS' "HUSTLIN'" LAWSUIT
via THR, Esq. by Ashley Cullins on 4/11/2016

LMFAO can keep shufflin' with no interference from Ross.

LED ZEPPELIN CAN'T ESCAPE CLAIMS IT RIPPED OFF 'STAIRWAY'
URL: http://www.law360.com/ip/articles/783004

British rock group Led Zeppelin must face claims it stole the opening riff of 1971's "Stairway to Heaven" from another band after a California federal judge determined Friday that certain musical elements of the iconic hit song are sufficiently similar to Spirit’s “Taurus” for the case to head to jury.

DOLBY MAKING BASELESS IP CLAIMS TO RIVAL'S CUSTOMERS: SUIT
URL: http://www.law360.com/ip/articles/783143

Dolby was hit with a suit in California federal court Monday accusing the audio equipment maker of misinforming current and potential customers of rival GDC Technology that use of the latter’s products infringe copyrights held by Dolby, and that the two companies’ products aren't compatible.

MEET THE THAI MATH PROF WHOSE COPYRIGHT CASE ISヘADED FOR SCOTUS – AGAIN
via Reuters by Alison Frankel on 4/11/2016

In the eight years since the publisher John Wiley & Sons first sued him for copyright infringement, almost all of the particulars of Supap …
JUDGE TOSSES RICK ROSS COPYRIGHT SUIT AGAINST LMFAO OVER 'HUSTLIN'
via Reuters by Andrew Chung on 4/12/2016
URL: http://www.reuters.com/article/ip-rickross-copyright-idUSL2N17F0BL

A lawsuit alleging that electro-pop group LMFAO's song "Party Rock Anthem" ripped off rapper Rick Ross' chart-topping "Hustlin'" has been thrown out ...

CAN I USE YOUR PICTURE?: COPYRIGHT ADVICE FOR WORKING WITH EYEWITNESS MEDIA FAIRLY FROM #IJF16
via Journalism.co.uk by Madalina Ciobanu on 4/12/2016
URL: https://www.journalism.co.uk/news/-can-i-use-your-picture--copyright-advice-for-working-with-eyewitness-media-fairly-from-ijf16/s2/a628045/

Copyright is an important concern for news organisations who rely heavily on social media to source eyewitness footage in their reporting. Attributing ...

THE FUTURE OF DIGITAL CINEMA MAY BE AT STAKE IN LAWSUIT OVER INTEROPERABILITY
via THR, Esq. by Eriq Gardner on 4/12/2016

GDC and Dolby go to war over whether the messages and commands that allow motion pictures to play on screen are a protected form of intellectual property.

RIAA STILL HATES THE DMCA, EVEN AS STREAMING REVENUES SOAR
via Ars Technica by Valendtina Palladino on 4/12/2016

Record labels want more revenue from the free, ad-supported music on YouTube.

"HAPPY BIRTHDAY" LEGAL TEAM SEEKS TO FREE "WE SHALL OVERCOME" FROM COPYRIGHT
via THR, Esq. by Eriq Gardner on 4/12/2016
URL: http://www.hollywoodreporter.com/thr-esq/happy-birthday-legal-team-seeks-882961

A documentary filmmaker is the lead plaintiff in a lawsuit over the famous protest song
BLURRED LINES' JUDGE DENIES GAYE FAMILY'S $3.5M FEE BID  
via Law360: Intellectual Property by Bill Donahue on 4/12/2016  
URL: http://www.law360.com/ip/articles/783680

A California federal judge on Tuesday refused to order Robin Thicke and Pharrell Williams to pay Marvin Gaye’s family an extra $3.5 million in legal fees following the blockbuster verdict last year that their “Blurred Lines” infringed one of Gaye's iconic songs.

CROSS-BORDER ACCESSIBILITY MUST NOT CORRODE COPYRIGHT  
via IP Pro by Tammy Facey on 4/12/2016  
URL: http://ipprotheinternet.com/ipprotheinternetnews/article.php?article_id=4869

Removing unjustified geo-blocking must not lead to the abolition of the territoriality of copyright, according to local and regional EU representatives.

CALIF. ART RESALE LAW PREEMPTED BY COPYRIGHT, JUDGE SAYS  
via Law360: Intellectual Property by Bill Donahue on 4/12/2016  
URL: http://www.law360.com/ip/articles/783580

A federal judge on Monday ruled that California’s Resale Royalty Act is preempted by federal copyright law, once again tossing long-running class action litigation against Christie's Inc., Sotheby's Inc. and eBay Inc. over their refusal to pay the state law’s required royalties.

JUDGE DENIES MARVIN GAYE FAMILY'S REQUEST FOR PHARRELL AND ROBIN THICKE TO PAY THEIR LEGAL FEES  
via THR, Esq. by Ashley Cullins on 4/12/2016  

Gaye's heirs had asked for about $3.5 million in attorney's fees and costs connected to their legal fight with Robin Thicke and Pharrell Williams.

"STAIRWAY TO HEAVEN" LAWSUIT IS HARDLY A SLAM DUNK EVEN IF LED ZEPPELIN IS GOING TO TRIAL  
via THR, Esq. by Eriq Gardner on 4/12/2016  
URL: http://www.hollywoodreporter.com/thr-esq/stairway-heaven-lawsuit-is-a-883169

The similarity of Spirit's "Taurus" isn't the only controversy.
STAR TREK' STUDIOS SAY COPYRIGHT SUIT ON SOLID GROUND  
URL: http://www.law360.com/ip/articles/783585 

Paramount Pictures and CBS Studios told a California federal court Monday that the "Star Trek" fans behind a short film and yet-to-be-released feature must face a copyright infringement suit, arguing the claims are alleged in “copious detail” and satisfy the pleading standard.

COPYRIGHT VIOLATIONS NOT TAKEN SERIOUSLY: INTA GLOBAL CEO  
via The Times of India by Lubna Kably on 4/12/2016 

The main concern of global brands in relation to India are the challenges relating to Indian laws. The International Trademark Association (INTA), ...

BAD GIRL’ COLLABORATOR URGES 3RD CIRC. TO REVIVE USHER ROW  
URL: http://www.law360.com/ip/articles/783164 

A songwriter has told the Third Circuit that he filed suit over rhythm and blues artist Usher’s track “Bad Girl” precisely to seek ownership credit for his work, saying claims that he is trying to rework his copyright litigation on appeal are “fantastical.”

FACEBOOK LAUNCHES TOOL TO COMBAT FREEBOOTING  
via WSJ.com: WSJD by Steven Perlberg on 4/12/2016 
URL: http://www.wsj.com/articles/facebook-launches-tool-to-combat-video-freebooting-1460492932 

Amid complaints from video creators that their content is being stolen and re-uploaded across Facebook, the company is releasing a new rights management tool for video producers and companies that aims to combat the “freebooting” piracy issue.

GOOGLE’S “SAFE BROWSING” INITIATIVE IS MORE BARK THAN BITE  
via Vox Indie by Ellen Seidler on 4/12/2016 
URL: http://voxindie.org/googles-safe-browsing-is-more-bark-than-bite/ 

Despite headlines, it's still business as usual for Google -- Piracy sites full of malware and deceptive ads top Google search
FACEBOOK LIVE'S BIG PROBLEM ISN'T PORN. IT'S COPYRIGHT.
via Slate by Jacob Brogan on 4/12/2016
URL: http://www.slate.com/blogs/future_tense/2016/04/12/facebook_live_video_has_a_problem_with_copyright_not_porn_despite_rights.html

If you believe some of what you read, Facebook's Live video program has an intimacy problem: In Wired, for example, Julia Greenberg reports on the ...

TRADE COMMISSION WILL REVIEW CONTENTIOUS CISCO-ARISTA PATENT DISPUTE
via ITworld News by Michael Cooney on 4/12/2016

In what will probably be a long series of parries, the International Trade Commission this week granted a full review of certain patents in the now 15-month old patent suit between Cisco and Arista Networks.

‘WE SHALL OVERCOME’ COPYRIGHT MAY BE OVERCOME ONE DAY
via NYT > Media by Ben Sisario on 4/12/2016
URL: http://www.nytimes.com/2016/04/13/business/media/we-shall-overcome-copyright-may-be-overcome-one-day.html

A nonprofit group is seeking to have the famous protest song declared in the public domain and licensing fees returned.

I WROTE THAT: A LOOK AT THE 'AVATAR' COPYRIGHT CASES
URL: http://www.law360.com/ip/articles/777109

In a slew of suits decided between 2012 and 2015, plaintiffs alleged — but failed to prove — that James Cameron infringed their copyrights when creating "Avatar." Read singly, the opinions recount a litany of unavailing facts alleged by the plaintiffs. Taken together, the opinions reveal a widely held misconception that at trial facts speak for themselves, says Mitch Tuchman of Womble Carlyle Sandridge & Rice LLP.
2ND CIRC. SENDS PRE-1972 ROYALTIES CASE TO NY HIGH COURT
URL: http://www.law360.com/ip/articles/784056

The Second Circuit on Wednesday asked New York’s highest court to resolve a closely watched class action over whether radio companies like SiriusXM must pay royalties on songs recorded before 1972.

LAWYERS WHO WON HAPPY BIRTHDAY COPYRIGHT CASE SUE OVER “WE SHALL OVERCOME”
via Ars Technica by Joe Mullin on 4/13/2016

Civil rights anthem never should have been copyrighted, plaintiffs say.

CONTROVERSY OVER PRE-1972 SOUND RECORDINGS CERTIFIED TO NEW YORK APPEALS COURT
via THR, Esq. by Eriq Gardner on 4/13/2016

The 2nd Circuit says it needs guidance on whether state law gives copyright holders performance rights.

GOOGLE LOOKS TO NIX CLASS IN 'PLAY' MUSIC-STREAMING IP SUIT
via Law360: Media & Entertainment by Suevon Lee on 4/13/2016
URL: http://www.law360.com/media/articles/784223

Google Inc. asked a New York federal judge on Wednesday to toss class claims in litigation brought by a music label alleging copyright infringement through its Google Play music-streaming service, saying the claims were too individualized to warrant class standing.

FACEBOOK'S EXPANDED ANTI-FREEBOOTING PUSH DRAWS CAUTIOUS THUMBS-UP FROM VIDEO CREATORS
via Variety by Todd Spangler on 4/13/2016

Facebook's move to grant broader access to its copyright-flagging system to take down unauthorized video posted to the site is being praised by ...
GAYE FAMILY DENIED ATTORNEYS' FEES IN 'BLURRED LINES' COPYRIGHT DISPUTE
via Reuters by Andrew Chung on 4/13/2016
URL: http://www.reuters.com/article/ip-gaye-fees-idUSL2N17G28L

Recording stars Pharrell Williams and Robin Thicke, whose 2013 smash hit "Blurred Lines" was found to infringe the copyright to one of Marvin Gaye's ...

FACEBOOK 'RIGHTS MANAGER' MAKES IT HARDER TO RIP OFF VIDEOS
via PC by Tom Brant on 4/13/2016

It will soon be harder to illegally share copyrighted videos on Facebook, thanks to new tracking tools that the world's largest social network announced ...

CIRCUIT SEEKS GUIDANCE ON IMPORTANT ISSUE IN NY COPYRIGHT LAW
URL: http://www.newyorklawjournal.com/id=1202754899234/Circuit-Seeks-Guidance-on-Important-Issue-in-NY-Copyright-Law

An important and unresolved issue on copyright infringement for music recorded prior to 1972 has been sent to the New York Court of Appeals.

NY COURT TO CONSIDER RIGHTS FOR PRE-1972 SONGS
via Courthouse News Service by Josh Russell on 4/14/2016
URL: http://www.courthousenews.com/2016/04/14/n-y-court-to-consider-rights-for-pre-1972-songs.htm

The Second Circuit passed a copyright lawsuit from Flo and Eddie of the Turtles to a New York appeals court to decide if owners ...

THE UNORIGINAL ORIGINALITY OF LED ZEPPELIN
via The New Yorker by Alex Ross on 4/14/2016
URL: http://www.newyorker.com/culture/cultural-comment/the-unoriginal-originality-of-led-zeppelin

Not long ago, the heirs of Marvin Gaye alleged that Robin Thicke and Pharrell Williams's song "Blurred Lines" infringed upon the copyright of Gaye's ...
John Makinson, Chairman of Penguin Random House, on opportunities and challenges faced by the publishing industry in the digital age, and their impact on readers and authors. Mr. Makinson is a panelist at the WIPO Conference on the Global Digital Content Market taking place in Geneva, Switzerland from April 20–22, 2016: http://ow.ly/10CUc2.

Soul singer Bill Withers’ music publisher has accused rapper Kendrick Lamar of ripping off the music from Withers’ 1975 single “Don’t You Want to Stay” for the hip-hop track “I Do This,” according to a copyright infringement lawsuit filed in California federal court on Thursday.

Cisco Systems Inc. asked a California federal judge Wednesday to pause Arista Networks Inc.’s antitrust suit against it, saying the outcome of an upcoming trial in Cisco’s copyright suit against Arista over the same network technology at issue could cancel out Arista’s claims of anti-competitive conduct.

On a recent occasion, Judge Alsup has correctly stated what the Federal Circuit ruled to be copyright-protected in this case (unlike in an order earlier in the build-up to the May retrial).

The U.S. Supreme Court will consider Friday whether to tackle a lawsuit over copyright protection for cheerleader uniforms — a case that could shed some needed light on the extent to which fashion designs are covered by American intellectual property law.
In one of the rare instances in which a designer could likely sue in connection with copying, consider Cihuah. The celebrated Mexican brand, which ...

The University of Illinois College of Law and Loyola University Chicago School of Law host the Society for Economic Research in Copyright (SERCI) Annual Congress (SERCIAC) July 7-8, 2016, at...

Virtual reality startup 360Heros Inc. is built on a simple concept: Set up a rig that can accommodate multiple GoPro cameras so that users can shoot ...

The parliamentary Education, Culture and Guidance Affairs Committee on Thursday approved the draft law on copyrights and ...

As the Library of Congress ushers in a new era with a new Librarian, the time is ripe to ensure that the Copyright Office has the accountability and authority to best serve all of its stakeholders—most of all the American public. The nomination of Dr. Hayden as the next
Librarian of Congress provides us with the opportunity to clarify the importance of the roles both the Library of Congress and the U.S. Copyright Office play in creating, cataloging, and administering the systems that preserve...

WHEN MOVIE RESEARCH LEADS TO CONTRACT OR COPYRIGHT CLAIMS
URL: http://www.law360.com/ip/articles/785044

Interviews can be an inherent, even essential, part of developing fact-based motion pictures and television productions. But if interviewees can assert contract rights arising from their interviews or copyright interests in recordings of those interviews, the development, production and ultimately the distribution of important, First Amendment-protected works could be severely impacted, says David Halberstadter of Katten Muchin Rosenman LLP.

BOX OFFICE REVENUES SAY LITTLE ABOUT PIRACY
via The Illusion of More by David Newhoff on 4/15/2016
URL: http://illusionofmore.com/box-office-revenues-say-little-piracy/

Once again the MPAA has announced a profitable year for American motion pictures, and once again some of the usual suspects have seized upon this announcement to declare the studios hypocrites for ever saying that piracy causes real harm to …

THE GPL IS ALMOST AN ALL WRIT CANARY
via The Laboratorium (2d ser.) by James Grimmelmann on 4/15/2016
URL: http://2d.laboratorium.net/post/142848414775

Indulge me. Suppose that iOS were licensed under the GNU GPL version 2 because it were built on top of the Linux kernel.

MARVEL LOSES ATTY FEE FIGHT AFTER KEY SPIDER-MAN IP WIN
URL: http://www.law360.com/ip/articles/785023

An Arizona federal judge on Thursday shot down Marvel Entertainment LLC’s request for attorneys' fees after it prevailed against an inventor’s high court appeal in a breach of contract suit seeking royalty payments for an expired Spider-Man toy patent, saying Marvel couldn’t relitigate the issue.
LICENSE VS. OWNERSHIP: COPYRIGHTABILITY OF EMBEDDED COMPUTER PROGRAMS
via IP Brief by Shawn Marcum on 4/15/2016
URL: http://www.ipbrief.net/2016/04/15/license-vs-ownership-copyrightability-of-embedded-computer-programs/

For Section 117 (repair and maintenance), the purchaser must be an owner of the copyrighted embedded software, but the valid license clearly ...

THE GHOST OF AEREO RISES: LOCAL TV STREAMING COMING TO SLING TV, SOURCES SAY
via Ars Technica by Megan Geuss on 4/15/2016

With a box called “AirTV,” people could have local TV beamed to the Sling app.

OXYGEN HIT WITH COPYRIGHT SUIT OVER ‘PREACHERS OF LA’
URL: http://www.law360.com/ip/articles/784951

Oxygen Media, an NBCUniversal subsidiary, and the spiritual leader of a 17,000-member church in southern California starring in the network's reality TV show “Preachers of L.A.” were hit with a copyright infringement suit in Florida federal court Thursday by a woman claiming her idea for the show was stolen.

GRAFFITI ARTIST FILES COMPLAINT ALLEGING COPYRIGHT INFRINGEMENT
via The Legal Intelligence by Chris Michaels on 4/15/2016
URL: http://www.thelegalintelligencer.com/home/id=1202755115629/Graffiti-Artist-Files-Complaint-Alleging-Copyright-Infringement

A complaint recently filed in the U.S. District Court for the Central District of California illustrates the problems that companies may run into if they do ...

GOOGLE, ORACLE SETTLEMENT TALKS FAIL AHEAD OF IP TRIAL
URL: http://www.law360.com/ip/articles/785508

Oracle and Google attempted, and failed, to reach a settlement Friday in California federal court ahead of a looming $8 billion copyright trial over the Android operating system's use of Oracle's copyrighted Java software code, according to court records.
THE CEOS OF GOOGLE AND ORACLE MET FOR 6 HOURS FRIDAY BUT FAILED TO SETTLE THEIR LAWSUIT
via ITworld News by Stephen Lawson on 4/15/2016
URL: http://www.itworld.com/article/3057267/the-ceos-of-google-and-oracle-met-for-6-hours-friday-but-failed-to-settle-their-lawsuit.html

The CEOs of Oracle and Google met for six hours on Friday but failed to reach a deal to end their massive copyright lawsuit over Google's use of Java in Android.

THE BLACK MARKET IN ACADEMIC PAPERS – AND WHY IT’S SPOOKING PUBLISHERS
via IFLScience by Dana Ruggiero on 4/16/2016
URL: http://www.iflscience.com/editors-blog/black-market-academic-papers-and-why-it-s-spooking-publishers

A colleague of mine recently posted a plea on an open forum asking for someone with access to please send her a copy of a journal article. This colleague works at one of the premier research institutions in the EU which has an annual budget of over €100m, yet she had to ask her connections on Facebook for access to a scholarly article. Her university did not have access to this piece of literature that she needed to complete her research.

YOUTUBE LAUNCHES 'FOUNDRY' INITIATIVE TO DEVELOP MUSIC TALENT
via Billboard by Andy Gensler on 4/16/2016

YouTube, for its part, argues music only makes up a small part of its content and parent company Google claims to have paid out $3 billion to copyright...

JUSTICES WRITE END TO AUTHORS' CHALLENGE TO GOOGLE BOOKS PROJECT
via Law.com - Newswire by Tony Mauro on 4/17/2016
URL: http://www.law.com/sites/articles/2016/04/17/justices-write-end-to-authors-challenge-to-google-books-project/

The U.S. Supreme Court on Monday ended a decadelong battle over Google Inc.'s massive book-scanning project, declining to take up an appeal by authors who claimed the company violated copyright law "on an epic scale."
COPYRIGHT LAW FOR THE BLIND NEEDS FINE-TUNING: GEIST
via TheStar.com by Michael Geist on 4/18/2016
URL: http://www.thestar.com/business/2016/04/18/copyright-law-for-the-blind-needs-fine-tuning-geist.html

As the political world was focused on the Liberal government's inaugural budget last month, Navdeep Bains, the Minister of Innovation, Science and ...

2ND CIRC. PASSES ON SIRIUSXM RADIO COPYRIGHT CASE
via FindLaw News for Legal Professionals by Jonathan R. Tung, Esq. on 4/18/2016

The Second Circuit's Court of Appeals decided to hold off on entering a potentially ground-moving decision involving class actions brought by members The Turtles, the rock group from the 70s. In the suit, they contended that federal copyright laws do not protect sound recordings made before 1972, and that state laws......

REPORTS OF DMCA ABUSE LIKELY EXAGGERATED
via The Illusion of More by David Newhoff on 4/18/2016
URL: http://illusionofmore.com/reports-dmca-abuse-exaggerated/

In the last week of March, you might have seen a headline or two announcing that 30% of DMCA takedown requests are questionable. And since we don't always read beyond headlines these days, these declarations happened to be conveniently-timed for ...

SUPREME COURT WON'T HEAR GOOGLE BOOKS CASE
via WSJ.com: WSJD by Brent Kendall on 4/18/2016
URL: http://www.wsj.com/articles/supreme-court-declines-to-hear-google-books-case-1460987925

The Supreme Court declined to intervene in a case examining whether Google engaged in copyright infringement when it scanned millions of books and made them searchable online.
ORACLE, GOOGLE COPYRIGHT CASE 'APPARENTLY NEEDS TO BE TRIED TWICE'
via Law Blog by [AUTHOR] on 4/18/2016
URL: http://blogs.wsj.com/law/2016/04/18/oracle-google-copyright-case-apparently-needs-to-be-tried-twice/?mod=WSJBlog

Weeks before a scheduled retrial, Oracle Corp and Google Inc. tried one more time to reach a settlement in their closely-watched copyright battle over the Android operating system. But the companies apparently came up empty-handed.

HIGH COURT WON'T HEAR COPYRIGHT CHALLENGE TO GOOGLE BOOKS
via Law Blog by Jacob Gerhsman on 4/18/2016
URL: http://blogs.wsj.com/law/2016/04/18/high-court-wont-hear-copyright-challenge-to-google-books/

The copyright dispute between the Authors Guild and Alphabet Inc.'s Google reached a conclusion Monday when the Supreme Court declined to intervene, leaving a federal appeals court ruling in Google's favor as the last word.

FAIR USE PREVAILS AS SUPREME COURT REJECTS GOOGLE BOOKS COPYRIGHT CASE
via Ars Technica by David Kravets on 4/18/2016

Fair use is a defense to copyright infringement in US intellectual property law.

SUPREME COURT REJECTS CHALLENGE TO GOOGLE BOOK-SCANNING PROJECT
via ITworld News by Grant Gross on 4/18/2016

The U.S. Supreme Court has refused to hear a copyright infringement case against Google for its now 12-year-old effort to scan books and allow people to search them online.

ORACLE RIPS 'ONE-SIDED' JURY INSTRUCTIONS IN $8B GOOGLE TRIAL
URL: http://www.law360.com/ip/articles/785674

Oracle has ripped a California federal court's proposed jury instructions in its looming $8 billion copyright trial against Google, complaining the instructions on fair use are inaccurate and unfairly slanted toward Google.
HBO, MARK WAHLBERG SEEK DISMISSAL OF 'BALLERS' COPYRIGHT LAWSUIT
via Variety by Ted Johnson on 4/18/2016

HBO, Mark Wahlberg, Dwayne Johnson and Stephen Levinson are challenging a claim that the series "Ballers" is a ripoff of a proposed series called ...

PROMOTER'S SONS SEEK SAME 9TH CIRC. PANEL IN COPYRIGHT ROW
URL: http://www.law360.com/ip/articles/785856

The sons of late concert promoter Bill Graham asked the Ninth Circuit to assign the same judicial panel that previously revived their suit accusing the Graham estate's executor and others of swindling them out of hundreds of copyrighted historic rock posters, saying the parties and issues are the same.

9TH CIRC. CALLS WB SAFE IN EASTWOOD BASEBALL FILM IP SUIT
URL: http://www.law360.com/ip/articles/785891

The Ninth Circuit on Monday determined that Warner Bros. didn't steal from a producer's script about a father-daughter baseball story for its Clint Eastwood film "Trouble with the Curve," saying the two stories are different in numerous and essential respects.

DISH FILES IP SUIT OVER STREAMING DEVICE'S 'MASSIVE PIRACY'
URL: http://www.law360.com/ip/articles/785946

Dish, China Central Television and the biggest producer of Cantonese-language TV programming have filed a copyright infringement suit in New York federal court accusing HTV International Ltd. of engaging in "massive piracy" through a peer-to-peer network similar to Napster and BitTorrent.

KOREAN ARTIST FILES COPYRIGHT INFRINGEMENT SUIT AGAINST DESIGNER MARY KATRANTZOU
via Korean Herald by Lee Woo-young on 4/19/2016
URL: http://www.koreaherald.com/view.php?ud=20160419000738

Artist Lee Myung-ho has sued London-based Greek fashion designer Mary Katrantzou for copying one of his iconic tree series, calling it "intentional ...
ABA Copyright Division
http://apps.americanbar.org/dch/committee.cfm?com=PT030000

NBA 2K' MAKERS SAY IN-GAME TATTOOS PREDATE IP REGISTRATION
via Law360: Intellectual Property by Braden Campbell on 4/19/2016
URL: http://www.law360.com/ip/articles/786412

The makers of professional basketball video game series "NBA 2K" asked a New York federal court Tuesday to dismiss the damages claims from a tattoo licensing company's suit over depictions of NBA stars' tattoos in the games, saying the alleged infringement predates the registration of the designs.

BOX OFFICE PROFITS NOT PROOF PIRACY DOESN'T HURT
via Vox Indie by Ellen Seidler on 4/19/2016
URL: http://voxindie.org/hollywood-profits-not-proof-piracy-doesnt-hurt/

Piracy erodes audience options-forces studios to make fewer films

EUROPE - WHEN IS HYPERLINKING LAWFUL?
via Lexology by Gillian M. Dennis & Carlton Daniel on 4/20/2016
URL: https://www.lexology.com/library/detail.aspx?g=910c885a-ba1a-4d3d-adb2-bd5ebbe73cca

In that case, it held that providing hyperlinks to freely accessible copyright protected content placed on the internet by the copyright owner or with the ...

MAJOR RECORD COMPANIES WANT KICKASS TORRENTS BLOCKED IN AUSTRALIA
via Tech Times by Sumit Passary on 4/20/2016

According to amendments made to Copyright Act in 2015, right holders can make an application to the Federal Court in forcing Internet service ...

GRAFFITI CANNOT BE COPYRIGHT PROTECTED, CLAIMS MOSCHINO, JEREMY SCOTT
via The Fashion Law on 4/20/2016
URL: http://www.thefashionlaw.com/home/graffiti-cannot-be-copyright-protected-claims-moschino-jeremy-scott

The latest update in the Rime vs. Jeremy Scott and Moschino case: The creative director and the Italian design ...
REBUTTAL: WHY 'MONKEY SELFIE' CASE IS IMPORTANT
URL: http://www.law360.com/ip/articles/785804

Rather than giving the "monkey selfie" case the careful consideration that it deserves, a recent Law360 Expert Analysis article opted for dismissive retorts. PETA's argument in a federal court on behalf of a monkey named Naruto made legal history, and we have the moral imperative to further the evolution of the law, which has proved so vital to the betterment of our society in the past, says Jeffrey Kerr, general counsel at PETA.

GOOGLE BOOKS: GREAT FOR GOOGLE - BUT WHAT ABOUT EVERYONE ELSE?
via K@W by R. Polk Wagner on 4/20/2016
URL: http://knowledge.wharton.upenn.edu/article/google-books-great-for-google-but-what-about-authors-and-consumers/

While a section of authors complain that Google Books infringes upon their copyrights, many believe it is in the public interest to open up access to ...

MARTIN SHKRELI DROPPED FROM WU-TANG CLAN ALBUM ART LAWSUIT
via Billboard by Gil Kaufman on 4/20/2016

Koza filed a copyright infringement lawsuit in Manhattan federal court in March seeking damages from Shkreli, auction site Paddle8, Wu-Tang leader ...

SPORTS MEMORABILIA RETAILER WANTS OUT OF PHOTO IP SUIT
URL: http://www.law360.com/ip/articles/786604

Sports memorabilia retailer Event USA Corp. asked a Wisconsin federal court Tuesday for a quick end to a case brought by two sports photographers accusing it of illegally selling memorabilia featuring their photos, saying the photographers have already released claims on the images.

A NEW LIBRARIAN OF CONGRESS AND A NEW COPYRIGHT OFFICE
via CPIP by Sandra Aistars on 4/20/2016

With the Senate considering the confirmation of Dr. Carla Hayden as the next Librarian of Congress, I have joined thirteen other intellectual property law professors in an Open Letter
suggesting that her confirmation should serve as an important reminder that the U.S. Copyright Office, a department within the Library of Congress, needs ...

WRITER TELLS 9TH CIRC. HE TOLD DISNEY 'PIRATES' SUIT WAS COMING
URL: http://www.law360.com/ip/articles/786482

A Florida writer said that a district court should not have tossed his copyright suit against the Walt Disney Co. over its "Pirates of the Caribbean" movie franchise, telling the Ninth Circuit on Monday that he gave the media giant proper notice of his intentions.

JUDGE TWEAKS JURY INSTRUCTIONS IN $8B GOOGLE-ORACLE TRIAL
URL: http://www.law360.com/ip/articles/786715

The California federal judge overseeing Oracle's looming $8 billion copyright trial against Google released a revised set of jury instructions Wednesday, tweaking his wording on "fair use" after Oracle had complained it was inaccurate and unfairly slanted toward Google.

LIBRARIAN OF CONGRESS NOMINEE SAYS LIBRARY MUST OPERATE 'SEAMLESSLY' IN DIGITAL WORLD

Polite and measured, Hayden noted the many challenges facing the library, which provides research for Congress, oversees the Copyright Office, and ...

CBS ARGUES REMASTERED VERSIONS OF OLD SONGS ORIGINAL ENOUGH TO BE COPYRIGHTED
via THR, Esq. by Eriq Gardner on 4/20/2016
URL: http://www.hollywoodreporter.com/thr-esq/cbs-argues-remastered-versions-old-886315

Does adjusting the loudness and timbre of a sound recording mean indefinite copyright duration, but no ability to stop radio stations from playing it?
GOOGLE BOOKS SURVIVES RIGHTEOUS CHALLENGE AS AUTHORS STARVE
via FindLaw News for Legal Professionals by Casey C. Sullivan, Esq. on 4/21/2016

Google Books is quickly becoming the Library of Alexandria for the digital age, a vast collection of the world's written knowledge. There's no need to fly to Egypt to check it out, however. Google Books are available free, online, making Google the world's most accessible librarian. But, as Google......

HIGH COURT TAKES ON ATTORNEYS' FEES IN COPYRIGHT CASES
URL: http://www.law360.com/ip/articles/787084

On April 25, the U.S. Supreme Court once again will hear argument in Kirtsaeng v. Wiley and visit - for the first time in at least 20 years - the issue of attorneys' fee awards in copyright cases. While Wiley argues that the circuit split is exaggerated and the district court did not abuse its broad discretion in applying the nonexclusive factors to its analysis under the Copyright Act, what we are witnessing is the continued erosion of Fogerty's mandate that prevailing parties should be treated evenhandedly, says Eleonora Zlotnikova of Sam P. Israel PC, which represents Kirtsaeng.

ORACLE SAYS TERIX MOVED ASSETS TO THWART $57.7M JUDGMENT
URL: http://www.law360.com/ip/articles/787221

Oracle America Inc. slapped Terix Computer Co. Inc. and three related companies with a copyright infringement suit in California federal court Wednesday claiming that after Terix was hit by a $57.7 million judgment, it fraudulently transferred all of its assets to shell companies in an effort to thwart the judgment.

CREATIVE PIPE SLAPPED WITH $1.2M SANCTION IN COPYRIGHT ROW
URL: http://www.law360.com/ip/articles/787273

A judge on Wednesday ordered Creative Pipe Inc. to pay more than $1.2 million for failing to provide documents and information about its assets to furniture maker Victor Stanley Inc., which was seeking to collect on unpaid judgements in a copyright suit.
KNITTING, CROCHETING AND COPYRIGHT: UNRAVELLING THE TRUTH
via Hugh Stephens Blog on 4/21/2016
URL: http://hughstephensblog.net/2016/04/21/knitting-crocheting-and-copyright-unravelling-the-truth/

Recently a Manitoba based writer, Joanne Seiff, posted an op-ed on CBC (Time to Assess the True Cost of Digital Piracy) commenting on how digital piracy is undermining the delicate economic equation that allows both aspiring and established writers to continue to create new content for the benefit of the consuming public. Joanne has ...

PRINCE TOOK A PROTECTIVE STANCE ON MUSIC COPYRIGHTS
via Los Angeles Times by Ryan Faughnder on 4/21/2016

Prince was always known for doing things his own way, building a legacy as a dynamic performer, versatile musician and fashion hero. But the artist ...

TOP PRINCE CASES THAT ROCKED THE COPYRIGHT WORLD
URL: http://www.law360.com/ip/articles/787700

Pop music legend Prince, who died Thursday at the age of 57, was a master songwriter and iconic performer. Not only did he have many hit songs and albums, he was also involved in several copyright infringement suits to police his music online. Here are a few notable IP disputes Prince faced throughout his famed music career.

THE PRINCE OF COPYRIGHT ENFORCEMENT
via Law Blog by Jacob Gershman on 4/21/2016

In the legal arena, "the artist formerly known as Prince" was known as perhaps the recording industry's most tenacious defender of copyright protections.

WHY PRINCE DIDN'T WANT HIS MUSIC ON THE INTERNET
via Fusion by Elmo Keep on 4/21/2016
URL: http://fusion.net/story/294276/prince-music-not-on-the-internet/

Prince ferociously protected his copyrights, enforcing his right as an artist to control the presentation and distribution of his work. On the web, he did ...
SUPREME COURT WRITES GOOGLE BOOKS A HAPPY ENDING
via FindLaw News for Legal Professionals by Casey C. Sullivan, Esq. on 4/21/2016

Once upon a time, to read a book you had to travel to the local bookstore, or, for the penny wise, the library. If you needed information from a rare or out of print work, you might have to go halfway across the world to secure a copy. Today?......

ORACLE, GOOGLE FILE HEATED TRIAL BRIEFS IN $8B IP SHOWDOWN
URL: http://www.law360.com/ip/articles/787442

Oracle and Google filed briefs Wednesday ahead of their looming $8 billion copyright infringement trial, with Oracle seeking to bar Google from using its software code for the Android operating system, and Google saying Oracle was using the courts to cut into the smartphone business.

IN-FLIGHT MUSIC COMPANY WILLFULLY VIOLATED UMG COPYRIGHTS -US JUDGE
via Reuters by Andrew Chung on 4/21/2016
URL: http://www.reuters.com/article/us-global-eagle-ent-lawsuit-idUSKCN0XI2ZH

Federal copyright law allows for a statutory maximum of $150,000 in ... The company collected money from the airlines for copyright licenses "in ..."

GOOGLE BOOKS & THE SEMANTIC MAZE OF FAIR USE
via The Illusion of More by David Newhoff on 4/22/2016
URL: http://illusionofmore.com/google-books-semantic-fair-use/

Photo by author. This week the Supreme Court declined to consider the Authors Guild v Google case, which lets stand the Second Circuit Court ruling that Google's use of scanned published works for its search tool Google Books constitutes a ...

PIRACY IS THE BIGGEST THREAT FACING THE FILM INDUSTRY AS WE KNOW IT - BUT NOT IN THE WAY YOU THINK
via Vox by Jason Blum on 4/20/16

Film is usually regarded as the art form most dominated by corporate interests.
UNIVERSAL WINS BIG RULING IN COPYRIGHT LAWSUIT OVER IN-FLIGHT MUSIC
via THR, Esq. by Eriq Gardner on 4/22/2016
URL: http://www.hollywoodreporter.com/thr-esq/universal-wins-big-ruling-copyright-886886

Getting record labels to sign off on licensing is tricky. That's nothing compared to winning a case over the lack of licensing where the target is moving.

RICHARD HOOPER, CHAIR, COPYRIGHT HUB FOUNDATION, ON GLOBAL DIGITAL CONTENT MARKET
via YouTube by wipo on 4/22/2016
URL: https://www.youtube.com/watch?v=Qx3zqA8ldxo

Richard Hooper, Chair, The Copyright Hub Foundation, shares his views at the Conference on the Global Digital Content Market taking place from April 20-22, 2016 at WIPO Headquarters in Geneva, Switzerland. At the Conference, public and private sector leaders as well as creators discuss the creative content economy, which has seen radical change to access and business models for more than a decade.

GOOGLE BOOKS LAWSUIT MAKES ITS WAY TO THE SUPREME COURT
via Journal of Law and the Arts on 4/22/2016
URL: http://lawandarts.org/2016/04/22/google-books-lawsuit-makes-its-way-to-the-supreme-court/

The question of the legality of Google Books, which has been in dispute for over a decade, may make its first appearance in the Supreme Court after plaintiffs petitioned for cert in December. The Authors Guild, a national professional and advocacy organization for writers, challenges Google's book-scanning project. With Google Books, the internet conglomerate [...]

COPYRIGHT ROYALTY BOARD DEFENDS ITS RELIGIOUS TV DECISION
URL: http://www.law360.com/ip/articles/787534

The Copyright Royalty Board has told the D.C. Circuit the board reasonably relied on Nielsen viewership data to divide royalties between rival religious TV groups, saying the decision fell within the CRB's broad discretion on how to split contested royalties.
MUST YOU BE 'UNREASONABLE'? JUSTICES TO MULL COPYRIGHT FEES
URL: http://www.law360.com/ip/articles/787704

The U.S. Supreme Court is set to hear arguments Monday on exactly when courts should award attorneys' fees to successful copyright litigants - proceedings that will center on whether the "unreasonableness" of a case should make or break a bid for fees.

PRINCE'S LEGENDARY IP CONTROL IN DOUBT AFTER DEATH
URL: http://www.law360.com/ip/articles/787852

Pop legend Prince was notorious for the tight control he sought over his intellectual property, fighting both pioneering battles against record labels and controversial lawsuits against fans. But with his passing on Thursday, experts say those strict controls could be in question.

UMG WINS BIG IN COPYRIGHT ROW OVER IN-FLIGHT MUSIC
URL: http://www.law360.com/ip/articles/788212

A California federal judge ruled Wednesday that in-flight entertainment provider Global Eagle Entertainment Inc. willfully infringed more than 4,500 copyrighted works owned by UMG Recordings Inc., setting the stage for a damages trial that could yield the record company tens of millions of dollars.

PETER S. MENELL: COPYRIGHT LAW YEAR IN REVIEW [AUDIO]
via Berkman Center for Internet and Society: Audio Fishbowl on 4/19/2016
URL: http://blogs.harvard.edu/mediaberkman/2016/04/19/peter-s-menell-copyright-law-year-in-review-audio/

What ties together cheerleader outfits, monkey selfies, the Batmobile, a chicken sandwich, Yoga, and Yoda? In this talk, Professor Peter S. Menell - Koret Professor of Law at UC Berkeley School of Law and a Director of the Berkeley Center for Law & Technology - provides an exhilarating copyright year in review. Download the MP3 [...]
5/18 | HOGAN LOVELLS PANEL: "DIGITAL SINGLE MARKET: BRINGING DOWN ONLINE BARRIERS"
via CSUSA on 4/22/2016
URL: http://www.csusa.org/news/285830/

Hogan Lovells will hold a CLE panel, "Digital Single Market: Bring Down Online Barriers and the Future of Copyright," in its New York office on May 18th.

MONKEY’S COPYRIGHT CLAIM DISMISSED
via Journal of Law and the Arts on 4/24/2016
URL: http://lawandarts.org/2016/04/25/monkeys-copyright-claim-dismissed/

As has been long expected, a California federal judge dismissed a copyright infringement suit brought on behalf of a monkey. Naruto the macaque swung into the spotlight in 2014 when he took a photo of himself using a camera that had been set up by British nature photographer David Slater. People for the Ethical [...]  

MEET DC COMICS’ NEWEST CHARACTER: THE BAT...MOBILE
via Journal of Law and the Arts on 4/24/2016

On March 7, 2016, the United States Supreme Court declined to hear an appeal of the Ninth's Circuit's decision declaring replicas of the Batmobile an infringement of DC Comics' intellectual property. In its decision, the Ninth Circuit rejected defendant Mark Towle's claim that the Batmobile is merely a "useful article" and thus should not [...]  

CUOZZO AND KIRTSANG

Oral arguments this morning in the Supreme Court cases of Cuozzo and Kirtsaeng. Transcripts will be available in the afternoon.

SONY WANTS $750,000 FEES IN FAKE EVIDENCE COPYRIGHT CASE
URL: http://www.law360.com/ip/articles/788271

Sony Corp. is asking for nearly $750,000 in legal fees after beating a copyright infringement lawsuit over the Shakira hit "Loca" - a case that was tossed after the revelation that key evidence had been fabricated.
GOOGLE WANTS FULL 5TH CIRC. TO REVIVE INJUNCTION ON MISS. AG
URL: http://www.law360.com/ip/articles/788325

Google wants all 15 judges of the Fifth Circuit to reconsider a panel decision dismissing its formerly approved injunction bid against the attorney general of Mississippi over a subpoena hinting at violations of pharmaceutical and movie piracy laws through YouTube ads.

MGM, STALLONE LOOK TO KNOCK OUT "CREED" INFRINGEMENT SUIT
URL: http://www.law360.com/ip/articles/788375

Metro-Goldwyn-Mayer Studios Inc., Warner Bros. Entertainment Inc., Sylvester Stallone and others involved in the creation and production of the 2015 boxing film "Creed" slammed a New Jersey resident's "frivolous" copyright suit alleging that they stole the idea for the movie, saying that he can't make a case after tweeting and "blurting out" his idea.

JUDGE SEES QUICK, DRUG-FREE LED ZEPPELIN COPYRIGHT TRIAL
via Bloomberg by Edvard Pettersson on 4/25/2016

The trial over whether Led Zeppelin stole the opening riff of "Stairway to Heaven" from a 1967 instrumental will be quick and focused and won't include ... 

SEPARATING FACT FROM FICTION IN THE NOTICE AND TAKEDOWN DEBATE
via CPIP by Kevin Madigan & Devlin Hartline on 4/25/2016

By Kevin Madigan & Devlin Hartline With the Copyright Office undertaking a new study to evaluate the impact and effectiveness of the Section 512 safe harbor provisions, there's been much discussion about how well the DMCA's notice and takedown system is working for copyright owners, service providers, and users. While hearing from a variety of ... Continue reading Separating Fact from Fiction in the Notice and Takedown Debate ?
JUSTICES HEAR DEBATE OVER FEES IN COPYRIGHT CASES
via Courthouse News Service by Britain Eakin on 4/25/2016
URL: http://www.courthousenews.com/2016/04/25/justices-hear-debate-over-fees-in-copyright-cases.htm

Kirtsaeng earned about $1 million from eBay sales, which the federal Copyright Act would normally exempt. However, a federal court slapped ...

COPYRIGHT CASE VICTOR RETURNS TO SUPREME COURT FOR LEGAL FEES
via NYTimes by Adam Liptak on 4/25/2016

The United States Supreme Court is considering the ramifications of awarding legal fees to the winners of copyright cases. Credit Zach Gibson/The ...

KIRTSAGENG WANTS COPYRIGHT FEES, BUT JUSTICES SEEM SKEPTICAL
URL: http://www.law360.com/ip/articles/785107

Attorneys for a book reseller who defeated publishing giant John Wiley & Sons Inc.'s copyright claims urged the U.S. Supreme Court to adopt a more holistic standard for awarding successful litigants attorneys' fees, but faced tough questions Monday over how and why the justices should do so.

DMCA PROTECTS EXAMINER.COM IN CELEB PIC ROW: 10TH CIRC
URL: http://www.law360.com/ip/articles/788709

The Tenth Circuit Monday affirmed a lower court ruling in favor of AXS Digital Medial Group over its Examiner.com website's use of copyrighted celebrity photographs, agreeing the online content provider is protected from liability by the Digital Millennium Copyright Act's safe-harbor provisions.

IP LITIGATION REPORT SHOWS DOWNWARD TRENDS IN PATENT, FILE SHARING COPYRIGHT AND IPR CASES

One aspect of the recent Lex Machina report that should jump out to anyone who has closely followed the patent litigation sector over the past few years is that the high percentage of all
patent cases filed at the U.S. District Court for the Eastern District of Texas (E.D. Tex.) has dropped significantly. During 2015, E.D. Tex. received 43 percent of all patent infringement cases filed in American district courts. This dropped off steeply to 30 percent, or 291 cases filed, during 2016's first...

ORACLE RAKES THIRD PARTY SUPPORT PROVIDERS OVER THE COPYRIGHT COALS
via Lexology by James Patto on 4/26/2016

When Neo consulted the 'Oracle' in the Matrix movies, he was left confused and uncertain as to whether the Morpheus-led campaign to name him the ...

COPYRIGHT CHAOS: WHY ISN'T ANNE FRANK'S DIARY FREE NOW?
via Ars Technica by Glyn Moody on 4/26/2016

Op-ed: EU's long and fragmented copyright terms are unfit for the digital world.

SPOTIFY BERATES SINGER'S DISCLOSURE DEMAND IN $150M IP ACTION
URL: http://www.law360.com/ip/articles/789151

Spotify hit back Monday against a musician's request to monitor communications between the music streaming service and members of a proposed class regarding a royalty settlement with the National Music Publishers Association, telling the California federal judge overseeing the $150 million infringement suit it would violate free speech.

WORLD IP DAY 2016 - DIGITAL CREATIVITY: CULTURE REIMAGINED
via Global Intellectual Property Center by Kathryn Sullivan on 4/26/2016
URL: http://www.theglobalipcenter.com/world-ip-day-2016-digital-creativity-culture-reimagined/

Prince's "Purple Rain." Sunday evenings with Jon Snow-suspense. Beyoncé's newest surprise-release album. These are just a few examples of the digital creativity-underpinned by intellectual property (IP) rights-that creates unifying pop-culture moments and many of us feel we could not live without. Today, we celebrate World IP Day and the integral role IP plays in society.
A FLAWED STUDY ON THE DMCA - PEELING BACK THE LAYERS OF THE ONION
via Vox Indie by Ellen Seidler on 4/26/2016
URL: http://voxindie.org/flawed-study-dmca-peeling-back-layers-onion/

Berkeley Law's dubious study on copyright notice and takedown faces more scrutiny

COPYRIGHT ROYALTY BOARD TO KEEP RETRANS RATES AS IS
URL: http://www.law360.com/ip/articles/788781

The Library of Congress' Copyright Royalty Board proposed a rule Tuesday to largely keep over-the-air retransmission royalty rates and terms unchanged through 2019, based on a settlement reached by industry groups and copyright holders.

KENDRICK LAMAR PHOTO COPYRIGHT ROW HEADED TO MEDIATION
URL: http://www.law360.com/ip/articles/789506

Hip-hop artist Kendrick Lamar, accused with several music production and record companies of using a copyrighted photo without authorization in the music video for "The Blacker the Berry," will enter mediation talks after counsel for both sides convened for a hearing in New York federal court on Tuesday.

LED ZEPPELIN'S DRUG USE BARRED FROM 'STAIRWAY' COPYRIGHT ROW
URL: http://www.law360.com/ip/articles/788880

Jurors tasked with deciding whether Led Zeppelin ripped off another band's music for "Stairway to Heaven" won't hear about the legendary rockers' drugs and alcohol use, a California federal judge ruled Monday, after Led Zeppelin's lawyers argued it was irrelevant and would "waste time."

DIRECTOR OF BRAZIL'S COPYRIGHT OFFICE ON DIGITAL ERA AND COPYRIGHT
via YouTube by WIPO on 4/26/2016
URL: https://www.youtube.com/watch?v=KvqJD9zFx4y

On World IP Day, Marcos Alves de Souza, Director of the Copyright Office of Brazil, calls for fair remuneration of authors and artists for the use of their creations in the digital environment, as well as fair and balanced copyright law that gains true social acceptance. "Digital Creativity: Culture Reimagined" is the theme of World Intellectual Property Day 2016. Find out more about intellectual property and digital creativity at http://www.wipo.int/ipday.
ARE COPYRIGHT SHARES TO SONGS BY DESTINY'S CHILD AND LADY GAGA ABOUT TO BE AUCTIONED?
via THR, Esq. by Eriq Gardner on 4/27/2016
URL: http://www.hollywoodreporter.com/thr-esq/are-copyright-shares-songs-by-888113

Sony is objecting to a motion made by a creditor in producer Rob Fusari's bankruptcy.

STAIRWAY TO COPYRIGHT INFRINGEMENT
URL: http://www.fordhamiplj.org/2016/04/27/stairway-to-copyright-infringement/

Ever since the band known as Led Zeppelin burst onto the scene in the late 60's and continued having monumental success through the 70's, they completely changed the face of modern rock music with their innovative styles and edgy lyricism. One of their greatest hits which helped to skyrocket the band to superstardom status was the iconic song known as Stairway To Heaven which is still known today as one of their greater achievements. Winning them many accolades and awards such as the prestigious Grammy award, the song was undoubtedly a smash hit and would go on to be listed as one of the 100 greatest rock songs of all time by VH1.

IHEARTMEDIA BACKS CBS 'REMASTER' DEFENSE IN PRE-1972 IP SUIT
URL: http://www.law360.com/ip/articles/789533

Radio giant iHeartMedia Inc. sided with CBS Corp. in the latter's defense against rights holders over pre-1972 song royalties, telling a California federal judge that certain "remastered" versions of the old songs are indeed eligible for copyright under federal law.

PHOTOGS SAY BID TO AMEND IP SUIT DEFENSES TOO LITTLE, TOO LATE
URL: http://www.law360.com/ip/articles/789845

A pair of professional sports photographers blasted an attempt by Event USA to amend its defense in a suit accusing the memorabilia retailer of selling collectibles featuring their images without permission, telling a Wisconsin federal court Tuesday the request is futile and comes too late.
IS PRESIDENT OBAMA TOO GOOGLEY-EYED?
via The Illusion of More by David Newhoff on 4/27/2016
URL: http://illusionofmore.com/president-obama-googley-eyed/

Remember when Barack Obama first entered the White House, and he made a deal with the Secret Service to keep his Blackberry? Admitting to his addiction to the device, the president got the agents to create a secure Blackberry that ... Continue reading?

READY, SET, LITIGATE: JUDGE SETS TIME LIMITS FOR ORACLE V. GOOGLE REMATCH
via Ars Technica by Joe Mullin on 4/27/2016

Jury may see a whirlwind of dozens of witnesses in a few short weeks.

ARTICLE ABOUT COPYING AND FORGERIES IS PLAGIARIZED BY AN IP ATTORNEY
URL: http://www.ipwatchdog.com/2016/04/28/ip-attorney-plagiarizes-article-copying/id=68602/

Earlier this week a friend posted a magazine article, "The Rise of Fakes and False Attributions in the Art World," on social media. The article was about art authentication and due diligence. Before I reached the end of the first paragraph, I realized that I was reading a plagiairy of my article, "Purchasing Art in a Market Full of Forgeries: Risks and Legal Remedies for Buyers," published in the International Journal of Cultural Heritage. The author structured her article on my work, a piece...

PAKISTAN REMOVED FROM USTR SPECIAL 301 REPORT
via IP Pro by Tammy Facey on 4/28/2016
URL: http://ipprotheinternet.com/ipprotheinternetnews/copyrightarticle.php?article_id=4893

The US Trade Representative's 2016 Special 301 Report, removed Pakistan from its Priority Watch List as a sign of improving copyright laws and their...

TATTOO COPYRIGHTS MAY FINALLY GET THEIR DAY IN COURT
URL: http://www.law360.com/ip/articles/788694

In a complaint recently filed in the Southern District of New York, licensing company Solid Oak alleges that the developers, marketers and distributors of the "NBA 2K16" video game are infringing its exclusive right to publicly display its copyrighted tattoos. Perhaps this will be the
tattoo copyright case that does not settle, says Yolanda King, associate professor at Northern Illinois University College of Law.

GETTY ON GOOGLE: IT'S ALL ABOUT TRAFFIC, DUH
via The Register by Andrew Orlowski on 4/28/2016
URL: http://www.theregister.co.uk/2016/04/28/getty_on_google/

Getty's action isn't a copyright dispute, he points out. It isn't about piracy, rights, or right-clicking to save. It is about the ability to build a business on the ...

STAR TREK' LAWSUIT: THE DEBATE OVER KLINGON LANGUAGE HEATS UP
via THR, Esq. by Eriq Gardner on 4/28/2016
URL: http://www.hollywoodreporter.com/thr-esq/star-trek-lawsuit-debate-klingon-888419

A federal judge gets an earful of Klingon proverbs from a language society intent on making sure that Paramount Pictures can't claim ownership.

HAPPY BIRTHDAY' ATTORNEYS WANT $4.8M IN FEES
URL: http://www.law360.com/ip/articles/790280

The attorneys who won a ruling last year invalidating Warner/Chappell Music Inc.'s copyright monopoly on "Happy Birthday to You" on Wednesday asked for $4.84 million for doing so.

EUROPE AND COPYRIGHT: A COMPREHENSIVE LOOK AT THE CONTINENT'S DIGITAL COPYRIGHT PLANS
via Billboard by Richard Smirke on 4/28/2016

"Today, we lay the groundwork for Europe's digital future," declared European Commission president Jean-Claude Juncker at the May 2015 unveiling ...
YOUTUBE WILL LET COPYRIGHT-DISPUTED VIDEOS KEEP EARNING AD REVENUE WHILE CLAIMS ARE PENDING
via Variety by Todd Spangler on 4/28/2016

YouTube, in a move to appease creators aggravated by bogus copyright claims, is adopting a new policy for its Content ID system that will let videos ...

LEGALISTIC, WARNER BROS. SUED FOR ALLEGEDLY STEALING 'KONG: SKULL ISLAND' STORY
via THR, Esq. by Ashley Cullins on 4/28/2016
URL: http://www.hollywoodreporter.com/thr-esq/legalistic-warner-bros-sued-allegedly-888503

Joe DeVito claims he created the universe surrounding King Kong's mysterious home and his pitch for a TV series was turned into a feature film without giving him compensation or credit.

LANGUAGE GROUP CALLS COPYRIGHTING KLINGON HIGHLY ILLOGICAL
URL: http://www.law360.com/ip/articles/790413

A copyright lawsuit over a "Star Trek" fan film has caught the attention of a constructed languages group, which argued Wednesday that Paramount Pictures can't copyright Klingon - and it did so in a brief written partially in the fictional language.

PRINCE'S DEATH A REMINDER THAT INDEPENDENT ARTISTS NEED SUPPORT
via Chicago Tribune by Ted Slowik on 4/28/2016

Dougherty's local incident mirrors the "dancing baby" copyright lawsuit that was finally resolved last year following an eight-year court battle over fair ...

ORACLE, GOOGLE AGAIN RIP JURY INSTRUCTIONS IN $8B IP ROW
URL: http://www.law360.com/ip/articles/790515

Oracle and Google on Wednesday both told the California federal judge overseeing the looming $8 billion copyright trial over Google's use of Oracle software code in its Android operating system that they're still not happy with his proposed jury instructions.
UMG, MEDIA CO. DELAY IN-FLIGHT IP TRIAL TO TRY AND SETTLE
URL: http://www.law360.com/ip/articles/790409

UMG Recordings and in-flight entertainment provider Global Eagle Entertainment convinced a California federal judge Wednesday to delay by several months an impending May trial on Global Eagle's damages for willfully infringing 4,500 UMG-owned songs, saying they were heading to mediation in June.

GEOBLOCKING: CONSUMERS NOT BREACHING COPYRIGHT BY CIRCUMVENTING WITH VPN, SAYS GOVT AGENCY
via ABC by Peter Ryan on 4/28/2016

Australian consumers should be able to legally circumvent geoblocking restrictions that prevent them from using foreign online streaming services like ...

PRODUCTIVITY COMMISSION CALLS FOR COPYRIGHT SHAKE-UP, GEOBLOCKING CHANGES
via The Huffington Post by HuffPost Australia on 4/28/2016

Australia's copyright laws would be drastically changed and the government's policy on geoblocking made clearer under reforms called for by the ...

SCREENSHOTTING IN SNAPCHAT - COPYRIGHT LAW CONCERNS

Snapchat, the fast-growing social media network/messaging app, has spawned some copyright controversy in the United Kingdom. In a recent Q&A ...

THE IMPACT OF FASHION LAW ON SCOTUS
via Inside Counsel by Amanda Ciccatelli on 4/29/2016

Varsity Brands-a case on cheerleading uniforms where a U.S. Court of Appeals ruled clothing isn't simply functional, and is subject to copyright ...
RE: WORLD IP DAY
via HitRecord by Joe on 4/26/2016
URL: https://hitrecord.org/records/2834987

So, this is a video we made for World Intellectual Property Day.

US CONGRESS TO LOOK FOR AREAS OF CONSENSUS ON COPYRIGHT LAW
via Music Week by Emmanuel Legrand on 4/27/2016

Congressman Bob Goodlatte, Chairman of the US House of Representatives Committee on the Judiciary, said that the country's copyright review process, started three years ago, will move into a more decisive phase "in the weeks ahead."

GOOGLE ACCUSED OF ENABLING PHOTOGRAPHY PIRACY
via Time by Olivier Laurent on 4/26/2016
URL: http://time.com/4307769/google-getty-images/

Getty Images files E.U. complaint against search giant

THE ANDROID ADMINISTRATION
via The Intercept by David Dayen on 4/22/2016

When President Obama announced his support last week for a Federal Communications Commission plan to open the market for cable set-top boxes - a big win for consumers, but also for Google - the cable and telecommunications giants who used to have a near-stranglehold on tech policy were furious.

COPYRIGHT POLICY SHOULD BE BASED ON FACTS, NOT RHETORIC

After nearly twenty years with the DMCA, the Copyright Office has launched a new study to examine the impact and effectiveness of this system, and voices on both sides of the debate have filed comments expressing their views. For the most part, frustrated copyright owners report that the DMCA has not successfully stemmed the tide of online infringement, which is completely unsurprising to anyone who spends a few minutes online searching for copyrighted works. Unfortunately, some commentators...
THIS CRITIC USED YOUTUBE'S COPYRIGHT SYSTEM TO SHORT CIRCUIT
YOUTUBE'S COPYRIGHT SYSTEM
via Forbes by Kevin Murnane on 4/29/2016

Jim Sterling is a YouTuber and game critic who regularly delivers profane but typically well-thought-out reviews and commentary on video games and ...

BEHOLD, A LEGAL BRIEF WRITTEN IN KLINGON

The made-up language is at the heart of a big copyright case involving CBS and Paramount, which own the rights to the "Star Trek" franchise, and a ...

STEAM'S SEGA GENESIS MODS: TWEAKS, TRANSLATIONS, AND COPYRIGHT INFRINGEMENT
via Ars Technica by Kyle Orland on 4/29/2016

New Steam Workshop support allows for uploading of arbitrary ROMs.

CHINA'S BIGGEST SEARCH ENGINE SIGNS AGREEMENT TO TACKLE PIRACY
via Billboard by Richard Smirke on 4/29/2016
URL: http://www.billboard.com/articles/business/7350247/china-search-engine-baidu-agreement-piracy

China's biggest internet search engine Baidu has pledged to do more to tackle copyright infringement. Earlier this week representatives of Baidu ...

IS CODE FREE SPEECH?
via The Illusion of More by David Newhoff on 4/29/2016
URL: http://illusionofmore.com/code-free-speech-2/

Embed from Getty Images I recently watched a documentary on Netflix called The Secret Rules of Modern Living: Algorithms, hosted by mathematician Marcus du Sautoy, and I would recommend this user-friendly guide for anyone who, like me, has basically sucked ...
WWII PHOTOG'S ESTATE SAYS CORBIS OWES $4M FOR USING IMAGES
URL: http://www.law360.com/ip/articles/790500

Photo licensing company Corbis Corp. owes $4 million to an agent of Soviet World War II photographer Yevgeny Khaldei's estate for using images from Khaldei's collection without paying for them, according to a suit filed Thursday in a New York state court.

WARNER BROS. SUED OVER 'WAR DOGS' GUN RUNNER MANUSCRIPT
URL: http://www.law360.com/ip/articles/790919

A Tampa-area entertainment company slapped a lawsuit against Warner Bros. Entertainment Inc. and other Hollywood heavyweights Thursday in Florida federal court, alleging they used a proprietary manuscript about the life of a so-called "gun runner" for their upcoming film, "War Dogs."

OREGON TELLS 9TH CIRC. IMMUNITY BLOCKS ORACLE'S IP SUIT
URL: http://www.law360.com/ip/articles/791002

Oregon on Thursday urged the Ninth Circuit to reverse a district court's ruling that the state must face Oracle's copyright suit over allegedly not-paid-for work done on Oregon's health insurance exchange, arguing the state never waived its 11th Amendment immunity.

COPYRIGHT EXPIRES ON BOLERO, WORLD'S MOST FAMOUS CLASSICAL CRESCENDO
via Bangkok Post by AFP on 4/30/2016

Almost 90 years after it was first performed in Pa, the copyright runs out on Sunday on one of the most popular and unique pieces of ...
You can get married in Klingon, use Google in Klingon, and even stage Hamlet in Klingon. But can you copyright Klingon? CBS and Paramount seem to think so, and they're suing a fan film that makes use of the language, first invented in 1984 for "Star Trek." Now, a......
May 2016

JUSTICES AGREE TO HEAR COPYRIGHT CASE OVER CHEERLEADING UNIFORMS
via Law.com - Newswire by Scott Graham on 5/1/2016
URL: http://www.law.com/sites/articles/2016/05/02/justices-agree-to-hear-copyright-case-over-cheerleading-uniforms/

It's the third IP case that the divided court has added to its 2016-17 calendar since the death of Justice Antonin Scalia.

JEREMY SCOTT'S LEGAL TEAM LIKENS GRAFFITI ARTIST TO MURDERER
via Page Six by Mara Siegler on 5/1/2016
URL: http://pagesix.com/2016/05/01/jeremy-scotts-legal-team-likens-graffiti-artist-to-murderer/

Now Scott's lawyers have filed to dismiss the copyright lawsuit brought by Rime - whose work has appeared at the Museum of Contemporary Art in ...

GOOGLE'S MASSIVE DATABASE DIMINISHES COPYRIGHT SECURITY FOR BOOKS
via ABQJournal on 5/2/2016

Clicking on the link will take you into Google Books, where you can finish Trollope's thought: "Take away from English authors their copyrights, and ..."

SUPREME COURT TO CONSIDER PATENT LACHES POST-'RAGING BULL'
via Law360: Intellectual Property by Ryan Davis on 5/2/2016
URL: http://www.law360.com/ip/articles/791267

The U.S. Supreme Court decided Monday to consider whether laches can be a defense in patent cases, agreeing to review a Federal Circuit decision that the defense remains available even though the high court eliminated it in copyright cases in a case involving the film "Raging Bull."

HIGH COURT WILL TACKLE APPAREL COPYRIGHTS IN CHEERLEADER CASE
via Law360: Intellectual Property by Bill Donahue on 5/2/2016
URL: http://www.law360.com/ip/articles/791265

The U.S. Supreme Court agreed Monday to weigh in on when apparel can be protected by copyright law - a question described by the petitioners as "the single most vexing, unresolved question in all of copyright."
IN COPYRIGHT LAWSUIT, STAR TREK FAN WORK GETS ITS 'EASY RIDER MOMENT'
via Forbes by Peter Decherney on 5/2/2016
URL: http://www.forbes.com/sites/peterdecherney/2016/05/02/in-copyright-lawsuit-star-trek-fan-work-gets-its-easy-rider-moment/

Paramount and CBS are suing the creators of a Star Trek fan film, "The Battle of Axanar," for copyright infringement. They claim that the film uses Star ... 

SUPREME COURT TO HEAR FIGHT OVER CHEERLEADER UNIFORMS
via THR, Esq. by Eriq Gardner on 5/2/2016

The case could also set boundaries on the copyright protection afforded to costumes.

JEREMY SCOTT'S LAWYERS COMPARE THE GRAFFITI ARTIST SUING HIM TO 'THE BLACK DAHLIA'S KILLER'
via The Muse by Ellie Shechet on 5/2/2016

Moschino designer Jeremy Scott has again filed a motion to dismiss a copyright lawsuit from Brooklyn graffiti artist Rime, who claims that Scott copied ...

LAWMAKERS WORRY FCC SET-TOP BOX PLAN INVITES PIRACY
via Law360: Intellectual Property by Jenna Ebersole on 5/2/2016
URL: http://www.law360.com/ip/articles/791334

House Judiciary Committee leaders told the Federal Communications Commission on Friday that they were concerned its plan to "unlock" the set-top box could expand the piracy of copyrighted works, saying the regulator must ensure those works are protected.

CAN A COPYRIGHT PROTECT A CHEERLEADER UNIFORM?
via Law Blog by Brent Kendall on 5/2/2016
URL: http://blogs.wsj.com/law/2016/05/02/can-a-copyright-protect-a-cheerleader-uniform/

The post-Scalia Supreme Court is setting its sights on lower-profile cases, but ones that nevertheless pose tough questions, such as this: At its essence, what is a cheerleader uniform?
WSIS2016: SOFTWARE LICENSING MATTERS - TO EVERYBODY
via Intellectual Property Watch by Monika Ermert on 5/2/2016
URL: http://www.ip-watch.org/2016/05/02/wsis2016-software-licensing-matters-to-everybody/

A special committee at the World Intellectual Property Organisation on software licensing, a globally harmonized software licence model and a dispute resolution system were among the ideas presented to the World Intellectual Property Organization (WIPO) at panel it hosted at day one of the 2016 WSIS Forum meeting in Geneva.

INFOJUSTICE.ORG - AUSTRALIAN COMMISSION RECOMMENDS FAIR USE TO RESTORE BALANCE IN COPYRIGHT LAW
via Intellectual Property Watch on 5/2/2016

Infojustice.org reports: A draft report by the Australian Productivity Commission (APC) concludes that the current copyright law fails to properly balance the interests of copyright holders and users. It warns that "Australia's copyright arrangements are weighed too heavily in favour of copyright owners, to the detriment of the long-term interests of both consumers and intermediate users." The APC makes recommends changes to the law to address the imbalance, including "the introduction of a broad, principles-based fair use exception."

IS DOJ INADVERTENTLY CREATING "COPYRIGHT TROLLS?"
via The Hill by Andrew Langer on 5/2/2016
URL: http://thehill.com/blogs/congress-blog/technology/278391-is-doj-inadvertently-creating-copyright-trolls

Since just prior to World War II, the primary collectives for the major music publishers - the American Society of Composers, Authors, and Publishers ...

NELLY FURTADO HITS OUT AT YOUTUBE SAYING PRINCE'S DEATH REMINDS MUSICIANS 'TO WAKE UP AND SMELL ...
via The Telegraph on 5/2/2016
URL: http://www.telegraph.co.uk/news/2016/05/03/nelly-furtado-hits-out-at-youtube-saying-princes-death-reminds-m/

A coalition of musicians, including Katy Perry, Billy Joel and Rod Stewart, are among those arguing for changes to a US copyright law which, they say ...
SUPREME COURT TO HEAR COPYRIGHT FIGHT OVER CHEERLEADER UNIFORMS
via Ars Technica by Joe Mullin on 5/3/2016
URL: http://arstechnica.com/tech-policy/2016/05/supreme-court-to-hear-copyfight-over-cheerleader-uniforms/

3D printing companies are cheering for a cheerleading industry underdog.

EMBATTLED TRANS-PACIFIC TRADE PACT GOOD FOR HOLLYWOOD, SAYS OFFICIAL
via THR, Esq. by Jonathan Handel on 5/3/2016

Senior trade official Michael Froman makes the case for the TPP but acknowledges political headwinds.

GOOGLE IMAGE SEARCH AND THE MISAPPROPRIATION OF COPYRIGHTED IMAGES
via CPIP by Kevin Madigan on 5/3/2016
URL: http://cpip.gmu.edu/2016/05/03/google-image-search-and-the-misappropriation-of-copyrighted-images/

Cross-posted from the Mister Copyright blog. Last week, American visual communications and stock photography agency Getty Images filed a formal complaint in support of the European Union's investigation into Google's anti-competitive business practices. The Getty complaint accuses Google of using its image search function to appropriate or "scrape" third-party copyrighted works, thereby drawing users away ... Continue reading Google Image Search and the Misappropriation of Copyrighted Images?

HP URGES JUDGE TO TOSS ORACLE'S SOFTWARE CODE IP SUIT
URL: http://www.law360.com/ip/articles/791456

Hewlett Packard Enterprise Co. has urged a California federal judge to toss Oracle America Inc.'s suit alleging it conspired to distribute copyrighted Oracle software code through tech-support companies including Terix Computer Co. Inc., which previously paid $57.7 million to resolve a similar Oracle suit.
RUSSIA'S FACEBOOK LAUNCHES MOBILE APP IN STEP TOWARDS COPYRIGHT LEGITIMACY
via Billboard by Vladimir Kozlov on 5/3/2016

Russia's leading homegrown social network VKontakte has made a major step towards legalizing its famously unauthorized music content with the ...

AUTHORS GUILD V. GOOGLE RULING: AN EXPANSIVE VIEW OF FAIR USE
via Huffington Post by David Chavern on 5/3/2016
URL: http://www.huffingtonpost.com/david-chavern/authors-guild-v-google-ru_b_9824240.html

The copyright law is intended to protect authors and creators, not allow another company to commercially benefit from their work. Yet, recently, the "fair ...

ARTIST DROPS SUIT OVER SHKRELI-OWNED WU-TANG ALBUM
URL: http://www.law360.com/ip/articles/792198

A Long Island visual artist has agreed to drop his headline-grabbing copyright infringement suit over the $2 million one-of-a-kind Wu-Tang Clan purchased by indicted pharmaceutical exec Martin Shkreli.

US SUPREME COURT TO REVIEW STANDARD FOR COPYRIGHT PROTECTION OF CLOTHING

The decision in this case will clarify the conceptual separability test and could offer broader protection for useful articles.

NO HONOR IN KLINGON BRIEF IN 'STAR TREK' IP ROW, CBS SAYS
URL: http://www.law360.com/ip/articles/792313

 Paramount and CBS battled back against a brief lodged days before a scheduled hearing in their copyright suit over a "Star Trek" fan film, saying Tuesday a constructed languages group's
argument that the companies can't copyright Klingon is untimely, improper and irrelevant to the matter at hand.

GOOGLE'S 'FAIR USE' JURY INSTRUCTION IS RULED UNFAIR
URL: http://www.law360.com/ip/articles/791799

With an $8 billion copyright trial between Oracle and Google looming next week, the judge set to oversee the case reprimanded Google on Monday for "cleverly" taking a "snippet" of key fair use case law out of context.

BEACH LAKE RESIDENT ACCUSES BOOK PUBLISHER OF COPYRIGHT INFRINGEMENT
via Penn Record on 5/3/2016

Beach Lake resident accuses book publisher of copyright infringement ... reproduced and exceeded the limits of use of his copyrighted photographs.

COPYRIGHT HOLDERS SUE MONROEVILLE RESTAURANT
via Penn Record on 5/3/2016
URL: http://pennrecord.com/stories/510722229-copyright-holders-sue-monroeville-restaurant

Music copyright holders have filed suit against a Monroeville restaurant, citing alleged copyright infringement. Broadcast Music, Inc.

IT'S A SYSTEM THAT IS RIGGED AGAINST THE ARTISTS': THE WAR AGAINST YOUTUBE
via Billboard by Robert Levine on 5/5/2016
URL: http://www.billboard.com/articles/business/7356794/youtube-criticism-labels-artists-managers-payouts

It's hard to negotiate fairly with services like YouTube, Azoff implied, because the "safe harbor" provision of the Digital Millennium Copyright Act ...
HISTORIC SNAP APP LAUNCHES WITH COPYRIGHT HUB POWERS
via IP Pro by Tammy Facey on 5/5/2016
URL: http://ipprotheinternet.com/ipprotheinternetnews/copyrightarticle.php?article_id=4902#.Vy_7Q3qbCJE

A new sharing application that allows users to save and share old photos has launched with Copyright Hub capabilities. Clixta assigns a hub key to ...

RAH! RAH! SIS BOOM BAH! SUPREME COURT TO DECIDE WHETHER COPYRIGHT ACT PROTECTS CHEERLEADER UNIFORM DESIGNS

In August 2015, the United States Sixth Circuit Court of Appeals held in Varsity Brands, Inc.. v. Star Athletica, LLC, 799 F.3d 468 (6th Cir.

PIRACY SITE FOR ACADEMIC JOURNALS PLAYING GAME OF DOMAIN-NAME WHAC-A-MOLE
via Ars Technica by David Kravets on 5/5/2016
URL: http://arstechnica.com/tech-policy/2016/05/piracy-site-for-academic-journals-playing-game-of-domain-name-whac-a-mole/

We reported just a few weeks ago on a popular pirate site for science journals whose overseas admin was being sued by one of the world's leading academic publishers, Elsevier.

COPYRIGHT BASICS FOR STARTUPS AND ENTREPRENEURS

In most cases, the value of an early-stage business is based primarily on its intellectual property, such as its rights in inventions, literary and artistic works, and the symbols, images, and names used to identify the business to its prospective customers. Though many entrepreneurs and startups immediately think of seeking patent protection for their ideas, the other two forms of intellectual property protection, copyright and trademark, provide valuable protections that should not be ignored.
A Kansas-based author lost a bid to revive his copyright lawsuit alleging a publishing company based in the United Kingdom backed out of a contract to pay him royalties for his book when the Fifth Circuit ruled Thursday it didn't have jurisdiction over the dispute.

The man behind the viral "Crazy Nastyass Honey Badger" YouTube video has settled his suits accusing Wal-Mart, Target and Kohl's of trademark and copyright infringement for selling merchandise that uses his catchphrase, according to voluntary dismissals approved this week in California federal court.

Under the United States Copyright Act, copyright attaches automatically to original works of authorship fixed in a tangible medium of expression, ...

The Australian government announced plans today to appoint an intellectual property (IP) counsellor in China. Australian assistant innovation minister ...

That's because its owner Alphabet (aka Google) has been able to take advantage of a copyright loophole to squeeze rates down to a fraction of what ...
SPAIN: COPYRIGHT ISSUES RELATED TO COLLECTIVE MANAGEMENT SOCIETIES' ROYALTIES
via Lexology by Blanca Cortes Fernandez on 5/6/2016
URL: http://www.lexology.com/library/detail.aspx?g=890a96a8-6541-46a0-8938-55b0f3dbc7b7

Blanca Cortés, counsel of CMS in Spain, represents a Spanish television broadcaster in court proceedings filed by two collective management ...
INDIA AMONG 11 COUNTRIES ON COPYRIGHT 'WATCH LIST'
via India West on 5/7/2016

India is among the 11 countries targeted by the Obama administration for leaving American producers of music, movies and other copyrighted material ...

MOONLIGHT INN, OWNERS ACCUSED OF UNAUTHORIZED SONG PERFORMANCES
via Louisiana Record on 5/7/2016

The plaintiffs request a trial by jury and seek an order restraining defendants from infringing copyrighted musical compositions licensed by BMI, ...

UNLICENSED TUNES HAVE HIGH-END STEAK HOUSE SINGING THE BLUES
via Tuscon.com by Maggie Driver on 5/7/2016
URL: http://tucson.com/business/local/unlicensed-tunes-have-high-end-steak-house-singing-the-blues/article_67e81ce9-e097-5647-8dc6-03c532b1d1c8.html

Tucson's Five Palms Steak and Seafood is in the middle of a copyright ... A proper license allows businesses to play the copyrighted songs in public, ...

SECOND ORACLE V. GOOGLE TRIAL COULD LEAD TO HUGE HEADACHES FOR DEVELOPERS
via Ars Technica by Joe Mullin on 5/8/2016
URL: http://arstechnica.com/tech-policy/2016/05/round-2-of-oracle-v-google-is-an-unpredictable-trial-over-api-fair-use/

Two of the world's biggest software companies face off in court this week for the second time, even though the most important issue of their dispute has already been resolved.

ORACLE V. GOOGLE COPYRIGHT RETRIAL WON'T BRING CLARIFICATION ON APPLICATION PROGRAMMING INTERFACES (APIS)
via FOSS Patents by Florian Mueller on 5/8/2016
URL: http://www.fosspatents.com/2016/05/oracle-v-google-copyright-retrial-wont.html

Tomorrow, the Oracle v. Google Android-Java copyright retrial is scheduled to begin.
MORE GOOGLE DMCA MISDIRECTION...REFUSING TAKEDOWN REQUESTS FOR BLOGGER SITES WITH CUSTOM DOMAINS
via Vox Indie by Ellen Seidler on 5/8/2016
URL: http://voxindie.org/google-dmca-misdirection-takedowns-blogger-hosted-sites-custom-domains/

Hop aboard for another spin on Google's DMCA Merry-Go-Round It's not news that Google-hosted Blogger websites are a favorite storefront for online pirates. It's also not news that Google does its best to obstruct DMCA takedowns by setting up various roadblocks along the way. Today I discovered yet another example of just how difficult Google makes the DMCA process-this time with Blogger-hosted

COPYRIGHT 'NOTICE AND TAKEDOWN' SYSTEM NEEDS FIXING
via The Hill by Randolph J. May on 5/9/2016

In order to adequately secure copyrights in music, movies and other media, the notice and takedown system needs to be fixed to comport with today's ...

WHALES, COPYRIGHT.....AND CENSORSHIP?
via Hugh Stephens Blog on 5/9/2016
URL: http://hughstephensblog.net/2016/05/09/whales-copyright-and-censorship

A couple of months ago a story about the Vancouver Aquarium and copyright infringement caught my attention.

GIVE ME A 'C' (IN A CIRCLE): CHEERLEADER UNIFORMS AT HIGH COURT
URL: http://www.law360.com/ip/articles/791295

Last week, the U.S. Supreme Court took up the invitation to clarify a messy area of copyright law. Star Athletica v. Varsity Brands concerns whether the designs on cheerleading uniforms can be subject to copyright protection, but the impact of the ruling is likely to spread well beyond uniforms - perhaps beyond garment design to other everyday useful articles, says Eleanor Lackman of Cowan DeBaets Abrahams & Sheppard LLP.
This week, World Intellectual Property Organization members are picking up discussions on a possible treaty to protect broadcasting organisations against signal piracy. Also on the agenda is exceptions and limitations to copyright for certain users. And proposals for two new topics for committee discussion are expected to be considered.

A Bahamian man accused of hacking into the email accounts of celebrities and professional athletes and of stealing television and movie scripts pled guilty Monday to charges of criminal copyright infringement and identity theft.

It didn't ask for permission from Oracle, which sued, alleging that it should be able to copyright the commands. The court will now weigh Google's ...

A jury of ten men and women has been selected for the second Oracle v. Google copyright trial, and opening statements will be heard here tomorrow morning.
A lawyer, an accountant and a retired CFO are among the eight women and two men who were selected Monday to decide Oracle's huge copyright infringement case against Google.

The framework would address concerns that the existing copyright law may not cover works produced by computers almost without any human ...

A Virginia-based author who says the television show "Empire" was lifted from his 2007 novel and claims Twentieth Century Fox owes him $1.5 billion for copyright infringement is pushing back on the network's bid to kill the suit, insisting in a brief Monday that the character similarities are no coincidence.

The judge in the long-running Oracle-Google copyright lawsuit has advised jurors to adjust the privacy settings on their social media outlets - noting, ...

One of the motivations for enacting the Digital Millennium Copyright Act (DMCA), 17 U.S.C. §1201 et seq., was the acknowledgement by Congress of ...
SIX THINGS TO WATCH IN ORACLE-GOOGLE TRIAL
via Law.com - Newswire by Ross Todd on 5/9/2016
URL: http://www.law.com/sites/articles/2016/05/07/six-things-to-watch-in-oracle-google-trial/

From the star witness lists to the tough judge, here's what you should know about the tech titans' showdown.

GOOGLE TOOK OUR PROPERTY-AND OUR OPPORTUNITY, ORACLE TELLS JURY
via Ars Technica by Joe Mullin on 5/10/2016
URL: http://arstechnica.com/tech-policy/2016/05/oracle-tells-jury-dont-buy-googles-fair-use-excuse/

"I always have to think when I write this out, because I'm not used to writing billions," Oracle lawyer Peter Bicks told a jury here as he wrote out "3,000,000,000" on a large sheet of paper.

JUDGE REFUSES TO DISMISS LAWSUIT OVER CROWDFUNDED 'STAR TREK' FILM
via THR, Esq. by Eriq Gardner on 5/10/2016

The use of Klingon - a language allegedly not copyrightable - in a not-yet-produced feature film can't doom this lawsuit.

RESISTANCE TO 'STAR TREK' IP SUIT PROVES FUTILE, FOR NOW
via Law360: Intellectual Property by Bill Donahue on 5/10/2016
URL: http://www.law360.com/ip/articles/794502

A federal judge on Tuesday refused to toss out a copyright lawsuit filed by Paramount Pictures over an unauthorized "Star Trek" fan film, quipping that the case should "live long enough" to survive an early-stage motion to dismiss but refusing to rule on whether it would "prosper" on the merits.

CRUZ CAMPAIGN SUED FOR UNAUTHORIZED MUSIC IN ADS
URL: http://www.law360.com/ip/articles/794415

The suspended presidential campaign of Texas Sen. Ted Cruz was hit on Monday with a federal lawsuit alleging copyright infringement and contract breaches related to its use of licensed music in political ads on YouTube and cable television.
COPYRIGHT PROTECTION OF DNA SEQUENCES: MARKET IMPLICATIONS (PART 2)
via Lexology by Chris Holman on 5/10/2016
URL: https://www.lexology.com/library/detail.aspx?g=c5557a38-b436-438f-afde-483e0d7403dd

The first installment of this two-part series on copyright sequence searching focused on the Copyright Office's use of search in conjunction with ...

ON THE STAND, GOOGLE'S ERIC SCHMIDT SAYS SUN HAD NO PROBLEMS WITH ANDROID
via Ars Technica by Joe Mullin on 5/10/2016

Alphabet Chairman and former Google CEO Eric Schmidt testified in a federal court here today, hoping to overcome a lawsuit from Oracle accusing his company of violating copyright law.

JUDGE: STAR TREK FANFIC CREATORS MUST FACE CBS, PARAMOUNT COPYRIGHT LAWSUIT
via Ars Technica by Megan Geuss on 5/10/2016
URL: http://arstechnica.com/tech-policy/2016/05/judge-star-trek-fanfic-creators-must-face-cbs-paramount-copyright-lawsuit/

On Monday, a Los Angeles-based US District Court judge ruled that Axanar Productions, a crowd-funded Star Trek fanfiction production company, would have to face a copyright infringement lawsuit (PDF) from CBS and Paramount, which own the rights to the Star Trek TV and film franchise.

ERIC SCHMIDT PLAYS GOOD DEFENSE AT THE ORACLE-GOOGLE TRIAL
via ITworld News by James Niccolai on 5/10/2016
URL: http://www.itworld.com/article/3068719/eric-schmidt-plays-good-defense-at-the-oracle-google-trial.html#tk.rss_news

Eric Schmidt was called to the witness stand Tuesday in Oracle's copyright infringement lawsuit against Google, and he gave little ground during some tense exchanges with Oracle's attorney.

Title II of the Digital Millennium Copyright Act (DMCA) offers safe harvests for qualifying service providers to limit their liability for claims of copyright infringement. To benefit from the Section 512(c) safe harbor, a storage provider must establish that the infringing content was stored "at the direction of the user." 17 U.S.C. § 512(c)(1). The statute does not define "user" and until recently, no court had interpreted the term.

JURY SELECTED FOR ORACLE-GOOGLE SHOWDOWN via Law.com - Newswire by Ross Todd on 5/10/2016 URL: http://www.law.com/sites/articles/2016/05/09/jury-selected-for-oracle-google-showdown/ The panel includes a former Silicon Valley CFO and a Napa County lawyer.

ORACLE'S NEW LAWYER COMES OUT SWINGING IN COPYRIGHT TRIAL via Law.com - Newswire by Ross Todd on 5/10/2016 URL: http://www.law.com/sites/articles/2016/05/10/oracles-new-trial-lawyer-coins-a-catchphrase/ Peter Bicks, the New York litigator taking center stage against Google, took aim at his adversary's famous file cabinet and even coined a catchphrase.

ORACLE & GOOGLE TRADE SAME OLD JABS IN COPYRIGHT TRIAL via Courthouse News Service by Nicholas Iovino on 5/10/2016 URL: http://www.courthousenews.com/2016/05/10/new-oracle-google-copyright-trial-kicks-off.htm "The right of fair use permits the use of copyrighted work without the owner's permission when it builds on something," Van Nest said. "Google ...
Oracle delivered opening statements Tuesday in its $8.8 billion lawsuit against Google, telling a California federal jury that Google can't hide behind a "fair use excuse" after it ripped out the "heart" of Oracle's copyrighted Java software code and put it into three billion Android devices.

Those in the sizable overlap will surely be disappointed by a federal judge's decision to sidestep the issue of whether the made-up language of ...
Oracle accused Google of "hypocrisy in the extreme" on Tuesday, after Google protested having one of its employees, a software engineer, called to the stand during an $8.8 billion copyright trial in California federal court over its use of Oracle's Java software code.

Keeping the first trial a secret won't work and may backfire, the judge told lawyers for Oracle and Google.

As an observer of two major disputes that started in the Northern District of California, Apple v. Samsung and Oracle v. Google, I have repeatedly taken issue with Judge Lucy Koh's unwillingness to invalidate bad patents, but all in all I'm still glad she has been nominated for the Ninth Circuit rather than Judge William H. Alsup, her San Francisco-based colleague.

"This is absurd," claimed the EFF in a statement on 11 May. "HVBA's use of clips from old bluegrass recordings is a clear fair use under copyright law."

The only thing these two men share is a name, nothing more.
COPYRIGHT AND CONSEQUENCES: GOOGLE'S ANDY RUBIN DEFENDS ANDROID TO JURY
via Ars Technica by Joe Mullin on 5/12/2016

During hours of unrelenting cross-examination today, Andy Rubin, Google's former Android chief, was on the stand in the Oracle v. Google trial defending how he built the mobile OS.

JUDGE WON'T REVIVE DYLAN THOMAS COPYRIGHT FIGHT
via Law360: Intellectual Property by Bill Donahue on 5/12/2016
URL: http://www.law360.com/ip/articles/795357

A New York federal judge on Thursday refused to budge from his March ruling that a British company could not use U.S. courts to sue the Welsh government and several American newspapers over tourism ads featuring photos of famed Welsh poet Dylan Thomas.

FOREVER 21, ROSS ACCUSED OF STEALING FABRIC DESIGN
URL: http://www.law360.com/ip/articles/795735

A textile company launched separate suits Thursday in California federal court against Forever 21 Inc. and Ross Stores Inc. for allegedly selling in their stores, clothes sporting a design that copies the company's original artwork.

ANDROID CHIEF DEVELOPER GRILLED AT ORACLE-GOOGLE COPYRIGHT TRIAL
via eWeek by Chris Preimesberger on 5/12/2016
URL: http://www.eweek.com/android/android-chief-developer-grilled-at-oracle-google-copyright-trial.html

Oracle lawyers found a message from 2006 in which Rubin wrote that the Java application programming interfaces (APIs) were copyrighted by Sun.

AWARDING ATTORNEYS' FEES IN COPYRIGHT CASES
via Lexology by Mark Hannemann et al. on 5/13/2016
URL: http://www.lexology.com/library/detail.aspx?g=139d0096-1e8d-4d40-82a1-58d8b9609e5b

John Wiley & Sons, Inc.-currently before the Supreme Court to determine the appropriate standard for awarding attorneys' fees in copyright ...
ATTORNEYS ASK COPYRIGHT OFFICE JUST WHAT A 'REPEAT OFFENDER' IS via Courthouse News Service by Maria Dinzeo on 5/13/2016
URL: http://www.courthousenews.com/2016/05/13/attorneys-joust-over-copyright-laws-legacy.htm

Section 512 of the 1998 law was designed to incentivize cooperation between copyright owners and online service providers, and protect providers ...

A COPYRIGHT LAWYER EXPLAINED WHAT'S GOING TO HAPPEN AT LED ZEPPELIN'S 'STAIRWAY TO HEAVEN' TRIAL via Business Insider by James Cook on 5/13/2016

On June 14 a case against Led Zeppelin members Robert Plant and Jimmy Page will go to trial in Los Angeles, accusing them of copying the ...

FASTCASE SEEKS SUMMARY JUDGMENT IN CASE OVER... via ABA Journal by Martha Neil on 5/13/2016

... in a federal case seeking a declaratory judgment that competitor Lawriter LLC has no copyright in the Georgia state regulations at issue. Lawriter ...

ATTORNEYS JOUST OVER LEGACY OF FEDERAL DIGITAL COPYRIGHT LAW via Courthouse News Service by Maria Dinzeo on 5/13/2016
URL: http://www.courthousenews.com/2016/05/13/attorneys-joust-over-copyright-laws-legacy.htm

Whether courts have "gotten it right" when it comes to the Digital Millennium Copyright Act's notice and takedown provisions ...

NBA 2K' VIDEOGAME MAKER FIGHTS LAWSUIT OVER COPYRIGHTED TATTOOS via THR, Esq. by Eriq Gardner on 5/13/2016

Take-Two says the registration for what can be seen on LeBron James' body came too late.
THE PIRATE BAY’S FILE-SHARING WEBSITES TO BE HANDED OVER TO SWEDISH GOVERNMENT
via Tech Times by Khier Casino on 5/13/2016

The Pirate Bay has become one of the most popular file-sharing torrent sites for downloading copyrighted media and programs for free, according to ...

NEW NBA GAME VERSION RESETS IP CLOCK, TATTOO LICENSER SAYS
URL: http://www.law360.com/ip/articles/796125

A tattoo licenser who is suing the makers of a basketball video game for depicting players' ink without permission responded Friday to the gaming companies' bid to kill the suit, insisting it's not too late to make their claims.

HERE'S A MOUNTAIN OF WILLFUL-INFRINGEMENT EVIDENCE THE ORACLE V. GOOGLE JURY WON'T SEE IN TRIAL PHASE ONE
via FOSS Patents by Florian Mueller on 5/13/2016
URL: http://www.fosspatents.com/2016/05/heres-mountain-of-willful-infringement.html

Further below you can find a very long list of items in the evidentiary record of Oracle v. Google (the Android-Java copyright infringement case) that will convince any reasonable person not affiliated with Google that Google was fully aware of the legally problematic approach its Android team took to the Java APIs.

TOP PROGRAMMER DESCRIBES ANDROID'S NUTS AND BOLTS IN ORACLE V. GOOGLE
via Ars Technica by Joe Mullin on 5/14/2016

The Oracle v. Google trial rolled into its fifth day on Friday, beginning with videotaped deposition testimony from Oracle founder Larry Ellison.
THE AUSTRALIAN PRODUCTIVITY COMMISSION'S COPYRIGHT RECOMMENDATIONS: USING A SLEDGEHAMMER TO KILL A FLY (OR KILLING THE GOLDEN GOOSE)
via Hugh Stephens Blog on 5/15/2016
URL: http://hughstephensblog.net/2016/05/15/the-australian-productivity-commissions-copyright-recommendations-using-a-sledgehammer-to-kill-a-fly-or-killing-the-golden-goose

When that pesky fly lands on your morning toast or afternoon scone, you can ignore it, or you can take reasonable responsive measures, such as closing the window, putting up a screen, or shooing it away.

GOOGLE'S BOOK SCAN PROJECT STILL UNDER FIRE DESPITE LEGAL VICTORY
via Intellectual Property Watch by Bruce Gain on 5/16/2016

Legal barriers for Google's monumental book-scanning project have been removed in the United States, but the initiative remains controversial and would likely run afoul of US copyright law, legal experts say.

STAY DOWN PROVISION WILL NOT "ENTRENCH" YOUTUBE DOMINANCE
via The Illusion of More by David Newhoff on 5/16/2016
URL: http://illusionofmore.com/staydown-provision-will-not-entrench-youtubes-dominance/

This is an argument that's been around for quite a while. I first stumbled upon it in 2013, found it again in the recently published report by Berkeley and Columbia researchers, and I understand it came up again in round-table ... Continue reading ?

AT TRIAL, TOP ANDROID CODER EXPLAINS ORACLE'S QUESTIONS ON "SCRUBBED" SOURCE CODE
via Ars Technica by Joe Mullin on 5/16/2016

Top Android programmer Dan Bornstein returned to the stand today as the Oracle v. Google trial rolled into its sixth day.
HEIRS TO GOSPEL CLASSIC CAN REGAIN RIGHTS, 6TH CIRC. Says
via Law360: Intellectual Property by Bill Donahue on 5/16/2016
URL: http://www.law360.com/ip/articles/796740

The Sixth Circuit on Monday ruled that the rights to the classic gospel song "I'll Fly Away" should revert to the six children of its late songwriter, ending a long decadelong fight over the Copyright Act's so-called termination rights.

WHO QUALIFIES AS A REPEAT INFRINGER OF COPYRIGHTS UNDER THE DMCA?
via FindLaw News for Legal Professionals by Casey C. Sullivan, Esq. on 5/16/2016

Thanks to the Digital Millennium Copyright Act, online services like Facebook, Reddit, and Youtube aren't liable for the copyright violations of their users. Those companies are protected by the DMCA's safe harbor provisions, but under the terms of the DMCA, those limitations on liability shall apply only when a......

GOOGLE PUTS ITS EXPERT ON THE STAND TO COMBAT ORACLE, WRAPS UP ITS CASE
via Ars Technica by Joe Mullin on 5/16/2016
URL: http://arstechnica.com/tech-policy/2016/05/google-puts-its-expert-on-the-stand-to-combat-oracle-wraps-up-its-case/

Today was the sixth day of the Oracle v. Google trial, and Google has finished making its argument that it's not a copyright scofflaw for using 37 Java APIs in the Android operating system.

ORACLE'S SAFRA CATZ: WE DIDN'T BUY SUN TO SUE GOOGLE
via Fortune by Reuters on 5/16/2016
URL: http://fortune.com/2016/05/16/oracle-google-safra-catz/

In a trial at San Francisco federal court, Oracle claims Google's Android smartphone operating system violated its copyright on parts of the Java ...
Oracle CEO Safra Catz took the stand in federal court today as her company makes its case that Google should pay billions of dollars for using 37 Java APIs in its Android operating system.

Oracle acquired Sun in 2010 and ...
ORACLE SAYS IT CONSIDERED DEVELOPING ITS OWN PHONE BEFORE GOOGLE SUIT
via Fortune on 5/17/2016
URL: http://fortune.com/2016/05/17/oracle-safra-catz-google-revenue/

... after Google stole its copyrighted software to enter the smartphone market, ... who fear an Oracle victory could spur more software copyright lawsuits.

ORACLE CEO: GOOGLE'S ANDROID BROKE JAVA IN TWO
via Ars Technica by Joe Mullin on 5/17/2016
URL: http://arstechnica.com/tech-policy/2016/05/oracle-ceo-googles-android-broke-java-in-two/

Oracle CEO Safra Catz testified in federal court today that Oracle spends "hundreds of millions" of dollars promoting and supporting Java and that the investment was at risk because of Google and Android.

BROADCASTERS SAY FILMON'S COPYRIGHT WIN FLOUNTED CONGRESS
URL: http://www.law360.com/ip/articles/797224

Broadcasters fired their final shot Monday in an effort to overturn a ruling that internet streamers like FilmOn X deserve the same automatic copyright license as cable companies, warning the Ninth Circuit not to "substitute its judgment" for that of Congress.

ANTI-PIRACY FIRM RIGHTSCORP'S Q1 FINANCIALS READ LIKE AN OBITUARY
via Ars Technica by David Kravets on 5/17/2016

Rightscorp heralded itself as a content savior when it was founded in 2011 with a novel business model-enforcing copyrights by capturing online pirates and demanding about a $20 fee per pilfered work.
Oracle lawyers put two executives and a computer expert on the witness stand in federal court here today, pushing their case that Google violated copyright law when it used Java API packages in its Android operating system.

According to the claim, Keller is the owner of copyrights to photographs that were originally licensed for limited use by McGraw-Hill but that are now ...

Keker & Van Nest partner Christa Anderson cross-examined Oracle's Safra Catz, who testified Tuesday about a testy exchange with Google's Kent Walker.

Oracle's legal battle against Google comes down to technical issues like software development and copyright law, but Oracle CEO Safra Catz on ...

Oracle has just filed a JMOL (judgment as a matter of law) motion against Google's flimsy "fair use" defense in the Android-Java copyright infringement case.
IS GRAFFITI INELIGIBLE FOR COPYRIGHT PROTECTION JUST BECAUSE THE ACT OF TAGGING IS ILLEGAL?
via Lexology by Nicholas M. O'Donnell on 5/18/2016
URL: http://www.lexology.com/library/detail.aspx?g=4aec2cbe-8f6d-49e3-963d-4ca4c57eb9e5

The motion raises a number of arguments, but the most significant is the contention that Tierney's work, as graffiti, is ineligible for copyright protection ...

JUDGE ASKED TO ORDER JIMMY PAGE AND ROBERT PLANT TO ATTEND 'STAIRWAY TO HEAVEN' TRIAL
via THR, Esq. by Eriq Gardner on 5/18/2016
URL: http://www.hollywoodreporter.com/thr-esq/judge-asked-order-jimmy-page-895337

Lawyers for the two stars say it's been made clear they will be at the California courthouse next month.

COPYRIGHT OFFICE MAY DEMAND E-BOOK COPIES
via Bloomberg BNA by Joseph Marks on 5/18/2016
URL: http://www.bna.com/copyright-office-may-n57982072564/

The Copyright Office may require publishers of Web-only e-books and sound recordings to provide copies of their publications to the ...

GOOGLE TRIES "PRETTY WOMAN" TACTIC IN ORACLE COPYRIGHT SUIT
URL: http://www.natlawreview.com/article/google-tries-pretty-woman-tactic-oracle-copyright-suit

I'm not sure Julia Roberts' use of that blonde wig and eighties cut-out dress when she leaned against Richard Gere's car in Pretty Woman should be considered "fair use," but perhaps a court might say otherwise. How does Julia's transformation from wayward to womanly in that iconic 1990 film come into play in a fight between tech giants Google and Oracle over the use of copyrighted java? Because they both hinge on "transformative use."

SUMMARY: 32ND SESSION OF WIPO'S COPYRIGHT COMMITTEE
via YouTube by WIPO on 5/18/2016
URL: https://www.youtube.com/watch?v=bvxbLkG71Y8

Michele Woods, Director of WIPO's Copyright Law Division and the Secretary of WIPO's Standing Committee on Copyright and Related Rights (SCCR), gives a brief summary of the official business that occurred during the 32nd session, held May 9 to May 13, 2016, in Geneva.
Meeting homepage & documents:
More about the SCCR:

SUN'S HEAD OF JAVA SALES: ANDROID WAS "DEVASTATING"
via Ars Technica by Joe Mullin on 5/18/2016
URL: http://arstechnica.com/tech-policy/2016/05/suns-head-of-java-sales-android-was-devastating/

Oracle put two former Sun Microsystems executives on the stand today to testify about how Google's Android hurt the market for Java licensing to phones.

A FAMOUS MURDER MYSTERY COMES UP IN GRAFFITI ARTIST'S LAWSUIT OVER KATY PERRY'S MET GALA DRESS
via THR, Esq. by Eriq Gardner on 5/18/2016
URL: http://www.hollywoodreporter.com/thr-esq/a-famous-murder-mystery-comes-895454

Does "illegal" art get copyright protection?

APACHE E-MAILS, SHOWN IN COURT, SAY ANDROID "RIPPED OFF" ORACLE IP
via Ars Technica by Joe Mullin on 5/18/2016

Lawyers for Oracle Corporation summoned a hostile witness to the stand today here in federal court, revealing what they surely hope will be a "smoking gun" e-mail in their copyright infringement case against Google.

ORACLE ECONOMIST: ANDROID STOLE JAVA'S "WINDOW OF OPPORTUNITY"
via Ars Technica by Joe Mullin on 5/18/2016
URL: http://arstechnica.com/tech-policy/2016/05/oracle-economist-android-stole-javas-window-of-opportunity/

An economist hired by Oracle was sworn in and took the stand in federal court today, opining that Google's use of Java APIs in Android shouldn't be considered "fair use."
POP ARTIST SETTLES SUIT OVER APPLE ADS
URL: http://www.law360.com/ip/articles/797958

Miami-based pop artist Romero Britto has agreed to drop a lawsuit accusing Apple Inc. of using his colorful art in an ad campaign without permission, according to court documents filed Wednesday.

GA., NONPROFIT WANT FINAL RULING ON STATE CODE COPYRIGHTS
URL: http://www.law360.com/ip/articles/797643

The battle over whether the state of Georgia can claim copyright ownership of its annotated legal codes is nearing a head, as both sides filed strongly worded motions Tuesday for a final ruling in their favor.

CERTAIN PROVISIONS OF CALIFORNIA RESALE ROYALTY ACT ARE PREEMPTED BY THE COPYRIGHT ACT


USITC FINDS TPP BENEFITS US ECONOMY, BUT MAYBE NOT JOBS; UNCLEAR ON IP RIGHTS
URL: http://www.ip-watch.org/2016/05/19/usitc-finds-tpp-benefits-us-economy-but-maybe-not-jobs-unclear-on-ip-rights/

The United States International Trade Commission (ITC), an independent government agency, today released an 800-page analysis of the economic impact of the Trans-Pacific Partnership (TPP) Agreement completed last year. The USITC report on the TPP is available here [large pdf]. The TPP was completed on 5 October 2015 by the US Trade Representative's office, along [...]

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COPYRIGHT ON A USEFUL ARTICLE
via Concurring Opinions by Gerard Magliocca on 5/18/2016
URL: http://concurringopinions.com/archives/2016/05/copyright-on-a-useful-article.html

I want to discuss a major copyright case that the Court added to its docket for the Fall. The question presented in Star Athletica, LLC v. Varsity Brands, Inc. is "What is the appropriate test to determine when a feature of a useful article is protectable under section 101 of the Copyright Act?"

IS GOOGLE SIMPLY ABOVE THE LAW?
via The Illusion of More by David Newhoff on 5/19/2016
URL: http://illusionofmore.com/google-simply-law/

Increasingly, in the United States, the answer to that question seems to be yes. As Exhibit A, I offer this latest anecdote from Ellen Seidler at VoxIndie, who describes the experience of one indie film distributor who found an entire ... Continue reading ?

LARRY PAGE DEFENDS GOOGLE'S USE OF JAVA IN TRIAL AGAINST ORACLE
via Fortune on 5/19/2016
URL: http://fortune.com/2016/05/19/larry-page-google-android-oracle/

In a retrial at San Francisco federal court, Oracle has claimed Google's Android smartphone operating system violated its copyright on parts of Java, ...

CEO LARRY PAGE DEFENDS GOOGLE ON THE STAND: "DECLARING CODE IS NOT CODE"
via Ars Technica by Joe Mullin on 5/19/2016
URL: http://arstechnica.com/tech-policy/2016/05/ceo-larry-page-defends-google-on-the-stand-declaring-code-is-not-code/

Google co-founder and CEO Larry Page speaks during a news conference at the Google offices on May 21, 2012 in New York City.

DISNEY URGES 9TH CIRC. TO REJECT 'PIRATES' COPYRIGHT CLAIM
via Law360: Intellectual Property by Brian Anmaral on 5/19/2016
URL: http://www.law360.com/ip/articles/798012

Walt Disney Co. urged the Ninth Circuit Wednesday to uphold the dismissal of a Florida man's copyright suit alleging he was the brain behind the "Pirates of the Caribbean" film series, portraying the writer as a marauding and obsessive litigant bent on plundering from others what is not rightfully his.
ORACLE V. GOOGLE DRAWS TO A CLOSE, JURY SENT HOME UNTIL NEXT WEEK
via Ars Technica by Joe Mullin on 5/19/2016
URL: http://arstechnica.com/tech-policy/2016/05/oracle-v-google-draws-to-a-close-jury-sent-home-unti

Presentation of evidence in the Oracle v. Google trial ended today, and US District Judge William Alsup has sent the jury home for a long weekend. On Monday, the jury will come back to hear closing arguments and then begin their deliberations.

BAIUL'S ATTY SANCTIONED OVER 'FRIVOLOUS' NBC SUIT
URL: http://www.law360.com/ip/articles/798494

An attorney for former Olympic champion figure skater Oksana Baiul was hit with a $50,000 sanctions order Thursday, after a New York federal judge ruled he had helped Baiul continue her royalty dispute against NBCUniversal, related to a 1994 television special, despite knowing the case was frivolous.

GOOGLE CAN'T GET REHEARING IN 5TH CIRC. ROW WITH MISS. AG
URL: http://www.law360.com/ip/articles/798181

Google Inc. on Wednesday lost its bid to persuade the Fifth Circuit to reconsider its decision nixing an injunction against the attorney general of Mississippi over a subpoena hinting at violations of pharmaceutical and movie piracy laws on YouTube.

ORACLE-GOOGLE DISPUTE GOES TO HEART OF OPEN-SOURCE SOFTWARE
via N.Y. Times by Quentin Hardy on 5/19/2016
URL: http://www.nytimes.com/2016/05/20/technology/oracle-google-dispute-goes-to-heart-of-open-source-software.html

Oracle says Google, the search giant, uses copyrighted material in 11,000 of its 13 million lines of software code in Android, and wants $9 billion from ...
UNDER OATH, LARRY PAGE DISPUTES THAT ANDROID IS A $43 BILLION BUSINESS FOR GOOGLE
via Business Insider by Julie Bort on 5/19/2016

Google argued that APIs shouldn't be subject to copyright law. A jury ... the bits of code were indeed copyrighted, owned by Sun and needed licenses.

SEGgie v. roofdog games inc.: who is the author of videogame software for copyright purposes?
via Lexology by Michael Shortt & Oliver Provost-Cao on 5/19/2016
URL: http://www.lexology.com/library/detail.aspx?g=e228ff00-d5ad-49f1-b89e-9fa60cc8b713

Roofdog Games Inc.[1], in which it attempted to clarify the notion of co-authorship (and by implication, copyright ownership) of a videogame. This case ...

ORACLE TEAM TESTED BY TIME LIMITS AS TRIAL WRAPS
via Law.com - Newswire by Ross Todd on 5/19/2016
URL: http://www.law.com/sites/articles/2016/05/19/oracle-team-tested-by-time-limits-as-trial-wraps/

Google's lead lawyer, Robert Van Nest, went into the last day of testimony with more than two hours on the clock, while Oracle's lawyers had just 54 minutes.

FLO & EDDIE TAKE THEIR COPYRIGHT CASE AGAINST SIRIUS XM TO 11TH CIRCUIT
via Reuters by Barbara Grzincic on 5/20/2016
URL: http://www.reuters.com/article/ip-sirius-11th-cir-idUSL2N18H09G

After losing companion cases in New York and California, Sirius XM Radio will ask a federal appeals court on Friday to uphold its win in Florida, ...

NINTENDO ISSUES COPYRIGHT CLAIMS ON MARIO-THEMED MINECRAFT VIDEOS
via Ars Technica by Kyle Orland on 5/20/2016
URL: http://arstechnica.com/gaming/2016/05/nintendo-issues-copyright-claims-on-mario-themed-minecraft-videos/

The Minecraft community is one of the most video-centric gaming groups online, with hundreds of thousands of players routinely streaming and sharing gameplay and mods through YouTube and Twitch without issue. Nintendo, on the other hand, is one of the most restrictive game
publishers with video, with a history of taking videos of its games offline, threatening to shut down livestreamed tournaments, and problems sharing ad revenue with video creators.

'HAPPY BIRTHDAY': JOURNEY TO THE PUBLIC DOMAIN
via Law360: Intellectual Property by Tamara Kurtzman on 5/20/2016
URL: http://www.law360.com/ip/articles/797460

With a landmark class action settlement scheduled to be approved next month, the iconic song that has ushered in birthdays of everyone from royalty and presidents to citizens and children alike will - for the first time in over 100 years - undisputedly fall in the public domain. The return of "Happy Birthday to You" to the public domain is unquestionably a resounding victory against ever-increasing false copyright claims, says Tamara Kurtzman of TMK Law.

FIGHTING FOR THE FUTURE BY MISREPRESENTING THE PAST
via Copyright Alliance by Keith Kupferschid on 5/20/2016
URL: https://copyrightalliance.org/2016/05/fighting_future_misrepresenting_past

It's generally well known by those following copyright issues, that the U.S. Copyright Office is engaged in a study of Section 512 of the Digital Millennium Copyright Act (DMCA), the provisions of the Copyright Act that provide for (among other things) the notice and takedown process and Online Service Provider (OSP) safe harbors.

KANYE WEST NAMED IN $2.5 MILLION COPYRIGHT INFRINGEMENT SUIT OVER "NEW SLAVES"
via The Fashion Law on 5/20/2016
URL: http://www.thefashionlaw.com/home/kanye-west-named-in-25-million-copyright-infringement-suit-over-new-slaves

Kanye West has been named in a $2.5 million dollar copyright infringement in connection with his 2013 song, "New Slaves." According to a complaint, ...

KANYE, JAY Z SLAM 'MADE IN AMERICA' IP SUIT AT 2ND CIRC.
URL: http://www.law360.com/ip/articles/798533

Kanye West and Jay Z asked the Second Circuit on Thursday to affirm a lower court decision dismissing copyright infringement claims over their song "Made in America," saying it has no protectable similarities with a song of the same name by Joel McDonald.
KANYE WEST HIT WITH $2.5M COPYRIGHT SUIT OVER 'NEW SLAVES'
URL: http://www.law360.com/ip/articles/799023

A Hungarian musician lodged a copyright infringement suit against Kanye West in New York federal court Friday, saying the music superstar tried to force him into a licensing deal for his 1969 song that was sampled by West for his 2013 hit "New Slaves."

BRITISH ARTISTS GET RECORD 17.1% MARKET SHARE, STEP UP FIGHT ON YOUTUBE
via Forbes by Mark Beech on 5/21/16
URL: http://www.forbes.com/sites/markbeech/2016/05/21/british-artists-get-record-17-1-market-share-step-up-fight-on-youtube/

As British artists achieve a record 17.1% global market share, record bosses have joined the fight against YouTube for not paying enough.

GOOGLE'S 'FAIR USE' DEFENSE AGAINST ORACLE IS AN INSULT TO HUMAN INTELLIGENCE: ANDROID'S USE OF JAVA APIS VIOLATES COPYRIGHT
via Foss Patents by Florian Mueller on 5/23/16
URL: http://www.fosspatents.com/2016/05/googles-fair-use-defense-against-oracle.html

There's a whole lot of doomsday stories out there on the Internet about Oracle v. Google, the Android-Java copyright case.

A LITTLE UNDERSTANDING MOTIVATES COPYRIGHT ABUSERS TO PAY UP
via Forbes by Michael Blanding on 5/23/2016
URL: http://www.forbes.com/sites/hbsworkingknowledge/2016/05/23/a-little-understanding-motivates-copyright-abusers-to-pay-up/

By Michael Blanding. Obtaining an image from the Internet is as easy as right-clicking and downloading. We've all done it-or, ahem, know someone ...
GOOGLE’S CLOSING ARGUMENT: ANDROID WAS BUILT FROM SCRATCH, THE FAIR WAY
via Ars Technica by Joe Mullin on 5/23/2016
URL: http://arstechnica.com/tech-policy/2016/05/googles-closing-argument-android-was-built-from-scratch-the-fair-way/

Google attorney Robert Van Nest made his closing argument to a panel of jurors here today, asking them to clear Android of copyright infringement allegations as a matter of "fairness and fair use."

ORACLE AND GOOGLE MAKE FINAL PITCHES TO THE JURY IN RETRIAL
via Fortune on 5/23/2016
URL: http://fortune.com/2016/05/23/oracle-google-closing-arguments/

In a retrial in federal court in San Francisco, Oracle has claimed Google's Android smartphone operating system violated its copyright on parts of Java, ...

INTA 2016: CAN EMOJIS BE PROTECTED BY COPYRIGHT?
via WIPR on 5/23/2016

It's unclear whether emojis can be protected by copyright but there may be a thin level of protection, the International Trademark Association's (INTA) ...

ORACLE SLAMS GOOGLE TO JURY: "YOU DON'T TAKE PEOPLE'S PROPERTY"
via Ars Technica by Joe Mullin on 5/23/2016
URL: http://arstechnica.com/tech-policy/2016/05/oracle-slams-google-to-jury-you-dont-take-peoples-property/

Oracle's copyright lawsuit is all about one "very simple rule," the company's attorney told a jury today.

CBS, PARAMOUNT SEEK PEACE IN 'STAR TREK' COPYRIGHT SUIT
URL: http://www.law360.com/ip/articles/799094

CBS Studios confirmed Monday that they are in talks to drop a controversial copyright lawsuit it filed against fans producing an unauthorized "Star Trek" film - days after series producer J.J. Abrams said the suit was "not an appropriate way to deal with the fans."
IN ORACLE VS. GOOGLE RETRIAL, LAWYERS MAKE FINAL PITCHES TO JURY
via Reuters by Dan Levine on 5/23/2016
URL: http://www.reuters.com/article/us-oracle-alphabet-trial-idUSKCN0YE23U

In a retrial at U.S. District Court in San Francisco, Oracle Corp has claimed Google's Android smartphone operating system violated its copyright on ...

STAR TREK BEYOND' DIRECTOR PUSHED STUDIOS TO DROP LAWSUIT OVER FAN FILM
via THR, Esq. by Ashley Cullins on 5/23/2016
URL: http://www.hollywoodreporter.com/thr-esq/star-trek-beyond-director-pushed-896740

A happy ending is in store for the filmmakers behind 'Axanar.'

ORACLE, GOOGLE GIVE CLOSING ARGUMENTS IN JAVA API COPYRIGHT CASE
via ZDNet by Stephanie Condon on 5/23/2016
URL: http://www.zdnet.com/article/oracle-google-give-closing-arguments-in-java-api-copyright-case/

When Google used 37 Java API packages to build the Android operating system a decade ago, did it use "open and free" tools to build a ...

ORACLE SUED GOOGLE OVER A HAMBURGER, JAVA-ANDROID JURY TOLD
via Bloomberg by Joel Rosenblatt on 5/23/2016

U.S. District Judge William Alsup has told the jury it's already been established that the Internet giant infringed Oracle's copyrights on the code.

A COPYRIGHT CONTROVERSY: THE GIANT RUBBER DUCKY IS BACK
via Hugh Stephens Blog on 5/23/2016
URL: http://hughstephensblog.net/2016/05/23/a-copyright-controversy-the-giant-rubber-ducky-is-back

There is no ducking it.
Oracle and Google's fierce court fight over the code inside Android went to a jury on Monday after closing arguments that sharply differed on the most basic issues.

The jury heard closing arguments from two veteran trial lawyers Monday in the blockbuster copyright trial between Oracle Corp.

"Recently, it has been wrongly claimed that the government is planning to reduce the life of copyright to 15 to 25 years after creation, rather than 70 ..."

I was told by a colleague who attended the Section 512 round tables in San Francisco that a consistent response from representatives of the OSPs was that anecdotes about harm to rights holders from piracy or YouTube-style infringement are not ...

In April 2014, Carlin filed the instant complaint against Bezos and Amazon.com (Amazon), including a single count of copyright infringement.
ONE DOES NOT SIMPLY MONOPOLISE A PUN
via Lexology by Nick Tobias on 5/24/2016
URL: http://www.lexology.com/library/detail.aspx?g=57ea61db-bc63-432c-ba24-f2d0d82e76e9

Cotton On, however, recently commenced selling clothing with those same words (below). Gorski commenced proceedings for copyright infringement ...

LED ZEPPELIN SAYS 'STAIRWAY TO HEAVEN' ADVERSARY TRYING TO TAINT JURY POOL
via THR, Esq. by Eriq Gardner on 5/24/2016

The band's attorney ridicules the "misrepresentation" that defendants won't be at the June 14 trial.

GOOGLE-ORACLE JURY DELIBERATIONS DELAYED BY TECH PROBLEMS
URL: http://www.law360.com/ip/articles/800135

Deliberations in Oracle's $8.8 billion trial over Google's use of copyrighted Java software code in the Android operating system were delayed when jurors couldn't access digital evidence files on Tuesday in California federal court.

COPYRIGHT HOLDERS SAY MUSIC PLAYED WITHOUT LICENSE OR PERMISSION
via PennRecord on 5/24/2016
URL: http://pennrecord.com/stories/510725061-copyright-holders-say-music-played-without-license-or-permission

The plaintiffs request a trial by jury and seek an order enjoining and restraining defendants from infringing copyrighted musical compositions licensed ...

NEW ZEALAND'S TPPA AMENDMENT BILL: FURTHER COPYRIGHT LAW AMENDMENTS
via Lexology by Paul Johns et al. on 5/25/2016

The Trans-Pacific Partnership Agreement ("TPPA") Amendment Bill was read for the first time in Parliament on 12 May 2016. This week, Baldwins will ...
ABA Copyright Division
http://apps.americanbar.org/dch/committee.cfm?com=PT030000

STATUTORY DAMAGES ARE A VITAL PART OF THE COPYRIGHT SYSTEM
via The Hill by George S. Ford on 5/25/2016
URL: http://thehill.com/blogs/pundits-blog/technology/281166-statutory-damages-are-a-vital-part-of-the-copyright-system

Earlier this year, the Internet Policy Task Force (IPTF) of the Department of Commerce issued its "White Paper on Remixes, First Sale, and Statutory ..."

EUROPEAN COMMISSION FLOATS BROAD PACKAGE OF REFORMS FOR DIGITAL SINGLE MARKET
via Intellectual Property Watch by Dugie Standeford on 5/25/2016

The European Commission today unveiled a raft of strategies aimed at boosting the European Digital Single Market (DSM). Among them, the EC rejected the idea of imposing one-size-fits-all rules on online platforms but said it will consider sector-specific regulation to address specific problems relating to such platforms, including in the area of copyright.

LED ZEPPELIN GOING TO CALIFORNIA FOR 'STAIRWAY' IP ROW
URL: http://www.law360.com/ip/articles/800192

Led Zeppelin on Tuesday slammed a bid to compel the band members' attendance at an upcoming trial in California federal court over alleged copyright infringement concerning their famous song "Stairway to Heaven," labeling it a "PR stunt in the hope of tainting the jury pool," as they've said they'll be there.

HOW ORACLE MADE ITS CASE AGAINST GOOGLE, IN PICTURES
via Ars Technica by Joe Mullin on 5/25/2016
URL: http://arstechnica.com/tech-policy/2016/05/how-oracle-made-its-case-against-google-in-pictures/

Oracle's lawyers have made their final pitch to paint Google as a copyright outlaw, and the decision is now up to a 10-person jury.

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GOOGLE, ORACLE TANGLE OVER 2ND PHASE AS JURY DELIBERATES
URL: http://www.law360.com/ip/articles/800633

As a California federal jury entered its third day of deliberating whether Google's Android operating system infringes Oracle's copyrighted Java code, the tech titans sparred Wednesday over whether the jury should decide if any such infringement was willful in a possible second phase of the trial.

MUSIC BODIES WELCOME EUROPEAN COMMISSION PLEDGE TO TACKLE 'VALUE GAP' AND CREATE 'LEVEL ...
via Billboard by Richard Smirke on 5/25/2016

Dr Harald Heker, CEO of German collecting society GEMA, also welcomed the EC's commitment to pursue a fairer allocation of value from copyright ...

FIVE UNEXPECTED LESSONS FROM ORACLE V. GOOGLE
via Law.com - Newswire by Ross Todd on 5/25/2016
URL: http://www.law.com/sites/articles/2016/05/24/five-unexpected-lessons-from-oracle-v-google/

The companies copyright showdown may be a repeat but it still provided some fresh material.

FAIR USE IN THE AGE OF SOCIAL MEDIA
via Forbes by Oliver Herzfeld on 5/26/2016

Courts have long recognized the need for such a defense because not every act that might violate an owner's copyrights should amount to an ...

GOOGLE BEATS ORACLE-ANDROID MAKES "FAIR USE" OF JAVA APIS
via Ars Technica by Joe Mullin on 5/26/2016
URL: http://arstechnica.com/tech-policy/2016/05/google-wins-trial-against-oracle-as-jury-finds-android-is-fair-use/

Following a two-week trial, a jury has found that Google's Android operating system does not infringe Oracle-owned copyrights because its re-implementation of 37 Java APIs is protected by "fair use."
ORACLE V. GOOGLE: JURY FINDS IN FAVOR OF "FAIR USE," AS NO REASONABLE, PROPERLY-INSTRUCTED JURY COULD HAVE
via FOSS Patents by Florian Mueller on 5/26/2016
URL: http://www.fosspatents.com/2016/05/oracle-v-google-jury-finds-in-favor-of.html

Courtroom tweeters in San Francisco have just reported that the Oracle v. Google retrial jury has found in favor of Google, i.e., has determined that Android's use of the declaring code and structure, sequence and organization of 37 Java APIs is "fair use."

GOOGLE BEATS ORACLE'S $9B COPYRIGHT SUIT WITH FAIR USE WIN
URL: http://www.law360.com/ip/articles/799429

Google won a high-profile jury verdict Thursday that its use of Oracle's copyrighted Java software code in its Android mobile operating system was protected by the fair use doctrine, clearing the company of liability that could have reached $8.8 billion.

SINGER HITS JUSTIN BIEBER WITH COPYRIGHT SUIT OVER 'SORRY'
URL: http://www.law360.com/ip/articles/800933

A singer-songwriter named Casey Dienel is claiming Justin Bieber copied the core of his smash hit "Sorry" from one of her songs, according to copyright infringement lawsuit filed Thursday.

POPULAR YOUTUBERS H3H3 PRODUCTIONS PREPARE TO DEFEND FAIR USE IN LAWSUIT
via Forbes by Fruzsina Eordogh on 5/26/2016
URL: http://www.forbes.com/sites/fruzsinaeordogh/2016/05/26/popular-youtubers-h3h3-productions-prepare-to-defend-fair-use-in-lawsuit/

One of YouTube's favorite married couples, Ethan and Hila Klein of h3h3 Productions, is being sued over alleged copyright infringement over a ...

GOOGLE WINS SIX-YEAR LEGAL BATTLE WITH ORACLE OVER ANDROID CODE COPYRIGHT
via The Guardian by Nicky Woolf on 5/26/2016
URL: https://www.theguardian.com/technology/2016/may/26/google-wins-copyright-lawsuit-oracle-java-code

The jury decided that Google's use of Java in its application programming interface (API) did not infringe on patents and copyrights held by Oracle.
GOOGLE WINS JAVA COPYRIGHT CASE AGAINST ORACLE
via WSJ.com: WSJD by Jack Nicas on 5/26/2016
URL: http://www.wsj.com/articles/google-wins-java-copyright-case-against-oracle-1464294647

A federal jury here ruled that Google's use of Oracle Corp.'s Java software didn't violate copyright law, the latest twist in a six-year legal battle between the two Silicon Valley titans.

GOOGLE WINS $9 BILLION ANDROID COPYRIGHT CASE
via Forbes by Brian Solomon on 5/26/2016
URL: http://www.forbes.com/sites/briansolomon/2016/05/26/google-wins-9-billion-android-copyright-case/

After years in court, Google finally prevailed over Oracle-and saved itself $9 billion in claimed damages. On Thursday, after four days of jury ...

ORACLE GC VOWS TO APPEAL GOOGLE WIN IN ANDROID CASE
via Law.com - Newswire by Ross Todd on 5/26/2016
URL: http://www.law.com/sites/articles/2016/05/26/google-defeats-oracle-in-9-billion-copyright-case/

The company's lawyers at Orrick, Herrington & Sutcliffe were on the losing end of a jury verdict Thursday finding Google's use of Java APIs protected as fair use.

GOOGLE BEATS ORACLE COPYRIGHT CASE
via Bloomberg on 5/26/2016

Bob O'Donnell, president and chief analyst at Technalysis Research, discusses the copyright lawsuit between Google and Oracle, the outlook for ...

THOUGHTS ON GOOGLE'S FAIR USE WIN IN ORACLE V. GOOGLE
via Written Description by Michael Risch on 5/27/2016
URL: http://writtendescription.blogspot.com/2016/05/thoughts-on-googles-fair-use-win-in.html

It seems like I write a blog post about Oracle v. Google every two years.
SUPREME COURT CERT: LACHES (IN PATENT CASES) AND COPYRIGHTABLE SUBJECT MATTER TO BE REVIEWED

The Supreme Court of the United States granted certiorari to review a patent case on the law of laches. SCA Hygiene Products v. First Quality Baby Products, Case No. 15-927 (Supr. Ct., May 2, 2016).

COPYRIGHT CLAIM ACCRUES WHEN OWNERSHIP DISPUTE BECOMES EXPLICIT
URL: http://www.natlawreview.com/article/copyright-claim-accrues-when-ownership-dispute-becomes-explicit

The US Court of Appeals for the Seventh Circuit concluded that a company's attempt to regain ownership of the copyright in marketing materials it had been hired to create was not timely under the Copyright Act or under California contract rules, and that a claim for copyright ownership only accrues when a dispute over ownership becomes "explicit." Consumer Health Information Corp. v. Amylin Pharmaceuticals, Inc., Case No. 14-3231 (7th Cir., Apr. 15, 2016) (Sykes, J).

INSURER SAYS IT OWES NOTHING TOWARD DISH COPYRIGHT SUITS
URL: http://www.law360.com/ip/articles/801203

Ace American Insurance Co. says it owes no repayment to Dish Network for any money the satcaster spent hashing out numerous copyright battles with television broadcasters over its ad-skipping, place-shifting Hopper DVR, according to a complaint filed in Colorado federal court on Thursday.

EVEN AFTER GOOGLE'S TRIAL VICTORY, LONG FIGHT STILL AHEAD
URL: http://www.law360.com/ip/articles/801448

With a Thursday jury verdict that Google's use of Oracle's copyrighted Java software code was protected by the fair use doctrine, the tech giant and its supporters won a huge battle, but the war is far from over.
The developer community may be celebrating today what it perceives as a victory in Oracle v. Google.

In its May 16, 2016 decision in Jackson Brumley et al. v. Albert Brumley & Sons Inc.

Attorneys for rap group the Beastie Boys argued in New York federal court on Thursday that a small record label is on the hook for $845,000 in attorneys' fees, saying that the label is responsible for its "baseless" claims that the group violated copyright laws with samples from a funk group's songs.

What Oracle can argue, and why it might work.

I had the pleasure of attending ALAI's symposium this week on The Copyright Board of Canada: Which Way Ahead. I was on a panel titled "Reimagining the Copyright Board" along with Ariel
Katz, Howard Knopf, Adriane Porcin, and Judge David Strickler of the U.S. Copyright Royalty Board.

WHAT THE GOOGLE FAIR USE DECISION MEANS FOR DEVELOPERS
URL: http://www.law360.com/ip/articles/801765

The California federal jury's decision last week in Oracle v. Google is likely a relief to developers who risk a lawsuit when they fail to negotiate a potentially costly license. But while the case may decide the future of software development, for the time being there is no profound change, say Erik Kane and Susanna Lichter of Kenyon & Kenyon LLP.

KRAFTWERK LOSES HIP-HOP MUSIC-SAMPLING COPYRIGHT CASE
via Ars Technica by Jennifer Baker on 5/31/2016

After a decades-long battle, the Bundesverfassungsgericht (the supreme German Constitutional Court) has overturned a ban on a song that used a two-second sample of a Kraftwerk recording.

MUSIC WORLD BANDS TOGETHER AGAINST YOUTUBE, SEEKING CHANGE TO LAW
via NYT > Media & Advertising by Ben Sisario on 5/31/2016

The industry has asked the government to modify the Digital Millennium Copyright Act, saying it is outdated and makes removing unauthorized content too difficult.

NBA 2K' MAKERS SAY TATTOO CO. NOT ENTITLED TO DAMAGES
via Intellectual Property Law360 by Matthew Perlman on 5/31/2016
URL: http://www.law360.com/ip/articles/801669

The makers of basketball video game series "NBA 2K" told a New York federal court Friday that a tattoo licensing company suing over depictions of NBA stars' tattoos in their games is not entitled to statutory damages because the works were featured in games before they were registered.
FIR AGAINST NOVOTEL HOTEL FOR VIOLATING MUSIC COPYRIGHT
via The Hindu by Guatam S. Mengle on 5/31/2016

The police have registered an FIR against the Novotel Hotel in Juhu for allegedly violating copyright laws by playing Bollywood movie songs without ...

DESIGN OWNER ACCUSES BUILDERS OF COPYRIGHT INFRINGEMENT
via LousianaRecord on 5/31/2016
URL: http://louisianarecord.com/stories/510758969-design-owner-accuses-builders-of-copyright-infringement

LaSalle School seeks a trial by jury, a finding the defendants have infringed the copyrights in it 1107 Webster Design and 1111 Webster Design, ...
June 2016

BALANCE IN COPYRIGHT
via Copyhype by Terry Hart on 6/1/2016
URL: http://www.copyhype.com/2016/06/balance-in-copyright/

Everybody says we should strive for balance in copyright law. Indeed, who is against balance in principle?

CBS BEATS LAWSUIT OVER PRE-1972 SONGS WITH BOLD COPYRIGHT ARGUMENT
URL: http://www.hollywoodreporter.com/thr-esq/cbs-beats-lawsuit-pre-1972-898633

A judge determines that remastered versions of old songs get copyright - and owners of the originals can't stop the public performance of them.

BIEBER IS RIGHT NOT TO BE 'SORRY' ABOUT THIS COPYRIGHT LAWSUIT
via Fortune by Jeff John Roberts on 6/1/2016
URL: http://fortune.com/2016/06/01/bieber-copyright/

But when it comes to this copyright lawsuit, we should all have his back. ... Plaintiff of the benefit of her exclusive right to ... her copyrighted works.".

CBS BEATS PRE-1972 COPYRIGHT CASE WITH 'REMASTER' ARGUMENT
via Intellectual Property Law360 by Bill Donahue on 6/1/2016
URL: http://www.law360.com/ip/articles/802339

A California federal judge on Tuesday tossed out a class action claiming CBS must start paying royalties for so-called pre-1972 recordings it plays on the radio, siding with the company's novel argument that "remastered" versions of old tracks aren't even pre-1972 songs in the first place.

UPDATE TO DIGITAL MILLENNIUM COPYRIGHT ACT LONG OVERDUE
via Vox Indie by Ellen Seidler on 6/1/2016
URL: http://voxindie.org/update-to-dmca-long-overdue/

Momentum is building for changes to the DMCA that will better protect creators Content creators from all walks of life are coalescing around the need to update copyright law to protect their work against theft in digital age. A piece in yesterday's NY Times, Music World Bands Together Against YouTube, Seeking Change to Law, is the latest to highlight growing calls by [...]
CBS WINS FIGHT OVER RIGHTS TO PLAY OLDIES
via Law.com - Newswire by Amanda Bronstad on 6/1/2016
URL: http://www.law.com/sites/articles/2016/06/01/cbs-wins-fight-over-rights-to-play-oldies/

CBS has amped up the fight over sound recordings made prior to 1972 with a rare win in California. A federal judge in the Central District of California granted summary judgment on Monday in a case brought by four recording companies asserting rights over 174 sample song recordings, including "All I Have To Do Is Dream" by the Everly Brothers and Mahalia Jackson's "Go Tell It on the Mountain."

FIRST AMENDMENT ADVOCATES ATTACK CA BILL TO COPYRIGHT PUBLIC WORKS
via Courthouse News Service by Nick Cahill on 6/1/2016

A bill giving California a copyright in records ... at all into the way copyrights are formed or attached under the federal law."

YOUTUBERS' COPYRIGHT CONFLICT SHOWS WHY FAIR USE ISN'T THE SHIELD SOME THINK IT IS
via Bloomberg BNA by Anandashankar Mazumdar on 6/2/2016
URL: http://www.bna.com/youtubers-copyright-conflict-b57982073412/

YouTuber couple Ethan and Hila Klein, the operators of H3H3Productions, have come up against a fair use problem based on their commentary on ...

MADONNA GETS VICTORY OVER 'VOGUE' SAMPLE AT APPEALS COURT
URL: http://www.hollywoodreporter.com/thr-esq/madonna-gets-victory-vogue-sample-898944

The 9th Circuit rules that a trivial taking isn't enough to establish copyright infringement.

MADONNA BEATS COPYRIGHT SUIT OVER SONG SAMPLE AT 9TH CIRC.
via Intellectual Property Law360 by Bill Donahue on 6/2/2016
URL: http://www.law360.com/ip/articles/802985

The Ninth Circuit on Thursday shot down a copyright lawsuit against Madonna over a split-second music sample she used in her 1990 hit "Vogue," expressly rejecting a controversial earlier ruling that declared all unauthorized sampling illegal.
HOW ORACLE'S FANCIFUL HISTORY OF THE SMARTPHONE FAILED AT TRIAL
via Ars Technica by Joe Mullin on 6/2/2016

Like the jury, I'm no expert.

GOOGLE'S FAIR USE VICTORY IS GOOD FOR OPEN SOURCE
via Ars Technica by Pamela Samuelson on 6/2/2016
URL: http://arstechnica.com/tech-policy/2016/06/googles-fair-use-victory-is-good-for-open-source/

Oracle and Google have been fighting for six years about whether Google infringed copyright by its use of 37 of the 166 packages that constitute the Java API in the Android software platform for smart phones.

THE GOOGLE/ORACLE DECISION WAS BAD FOR COPYRIGHT AND BAD FOR SOFTWARE
via Ars Technica by Peter Bright on 6/2/2016
URL: http://arstechnica.com/business/2016/06/the-googleoracle-decision-was-bad-for-copyright-and-bad-for-software/

Oracle's long-running lawsuit against Google has raised two contentious questions. The first is whether application programming interfaces (APIs) should be copyrightable at all.

CBS POINTS NY JUDGE TOWARD BIG WIN ON PRE-1972 COPYRIGHTS
via Intellectual Property Law360 by Bill Donahue on 6/2/2016
URL: http://www.law360.com/ip/articles/802765

CBS is already pushing a New York federal judge to take heed of a novel ruling in California earlier this week that said the radio giant needn't pay royalties for so-called pre-1972 recordings because "remastered" versions of the old tracks weren't even pre-1972 songs in the first place.

WHY ORACLE WILL WIN ITS JAVA COPYRIGHT CASE - AND WHY YOU'LL BE GLAD WHEN IT DOES
via The Register by Andrew Orlowski on 6/2/2016
URL: http://www.theregister.co.uk/2016/06/02/google_oracle_comment/

Comment Oracle will ultimately prevail in its Java copyright lawsuit against Google. And if you're a free software developer or supporter, you should be ...
MADONNA AND 'VOGUE' PRODUCER BEAT INFRINGEMENT APPEAL
via Law.com - Newswire by Amanda Bronstad on 6/2/2016
URL: http://www.law.com/sites/articles/2016/06/02/madonna-and-vogue-producer-beat-infringement-appeal/

In a win for Madonna and the producer of the dance hit "Vogue," a federal appeals court has created a circuit split over a key issue in copyright infringement claims involving sound recordings.

PROBLEMATIC COPYRIGHT PROVISIONS IN TPP
URL: http://www.law360.com/ip/articles/801938

While many of the Trans-Pacific Partnership's intellectual property provisions are consistent with strong copyright provisions already in place in the U.S., a thorough examination reveals that the TPP's treatment of copyright law is emphatically anti-innovation, say Ciara Mittan and Andrew Bridges of Fenwick & West LLP.

DE MINIMIS MUSIC SAMPLING ISN'T INFRINGEMENT-SALSOUL V. MADONNA
URL: http://blog.ericgoldman.org/archives/2016/06/de-minimis-music-sampling-isnt-infringement-salsoul-v-madonna.htm

There are several alternative tests for gauging "substantial similarity" in copyright cases.

9TH CIRCUIT STRIKES COPYRIGHT SUIT AGAINST...
via ABA Journal by Victor Li on 6/3/2016

Madonna was sued for plagiarism over her 1990 hit "Vogue." However, a federal appellate court has sided with the Material Girl after finding that the ...

PUBLIC WORKS COPYRIGHT BILL ADVANCES IN CALIF. ASSEMBLY
URL: http://www.law360.com/ip/articles/803436

The California Assembly on Thursday by a large majority passed a measure that would allow the state government to obtain copyrights for materials that it creates, despite the Electronic Frontier Foundation's claim that it could suppress the dissemination of government-funded works.
SPOTIFY SUED OVER NOTORIOUS B.I.G. IMAGE ON STREAMING SERVICE
URL: http://www.hollywoodreporter.com/thr-esq/spotify-sued-notorious-big-image-899527

Photographer Dana Lixenberg is claiming copyright infringement.

9TH CIRC. THROWS DOWN THE GAUNTLET ON MUSIC SAMPLING
URL: http://www.law360.com/ip/articles/803236

In siding with Madonna on music sampling, the Ninth Circuit did more than just weigh in on the legally murky issue. It forcefully repudiated existing case law that critics say has chilled creativity, resulting in the kind of sharp circuit split that could take sampling to the U.S. Supreme Court.

SHAKESPEARE WOULD THRIVE IN A WORLD WITH COPYRIGHT.
via The Illusion of More by David Newhoff on 6/5/2016

I saw it again the other day. In a sarcastic tweet that flew by. A familiar theme. Without naming names, it said something like this: As if creativity didn't exist before 1709. There was no Shakespeare. For one thing, this is ...
Hacker Lexicon: What Is the Digital Millennium Copyright Act?
via Wired by Kim Zetter on 6/6/2016
URL: https://www.wired.com/2016/06/hacker-lexicon-digital-millennium-copyright-act/

The call for copyright reform in America have grown so loud that Congress has finally heard it. Lawmakers have ordered a slate of studies to look into ...

Strike a Pose: Madonna's 'Vogue' Gets Fair Use Victory in 9th Cir.
via FindLaw Writ - Recent Articles by Jonathan R. Tung, Esq. on 6/6/2016

Have you ever listened to a song and heard the faint and often vague whisper of a familiar sound from another artist's song? Well, that's not by accident. Such sampling is rather common and is at the epicenter of a recent Ninth Circuit ruling in favor of everyone's favorite......

Appetite for Destruction: Axl Rose Demands Google Remove 'Fat' Photos
via The Guardian by Devon Maloney on 6/6/2016
URL: https://www.theguardian.com/music/2016/jun/06/axl-rose-google-remove-photos

That means anyone using parts of a copyrighted work for satirical, parodic, educational, research-based or critical purposes - all of which are legal ...

God's Not Dead' Producers Facing $100M Copyright Lawsuit
via Hollywood Reporter - THR, Esq. by Ashley Cullins on 6/6/2016
URL: http://www.hollywoodreporter.com/thr-esq/gods-not-dead-producers-facing-900029

Michael Landon Jr. and Kelly Kullberg claim the faith-based film used their story.

Artist Richard Prince Sued for Using Photos of Sid Vicious
via Intellectual Property Law360 by Bill Donahue on 6/7/2016
URL: http://www.law360.com/ip/articles/804434

Richard Prince has been hit with another lawsuit over his "appropriation art," this time over his allegedly unauthorized use of copyrighted images of 1970s punk rocker Sid Vicious.
WHAT ORACLE V. GOOGLE MEANS FOR GPUS
via FindLaw Writ - Recent Articles by Jonathan R. Tung, Esq. on 6/7/2016
URL: http://blogs.findlaw.com/technologist/2016/06/what-oracle-v-google-means-for-gpus.html

What does the recent ruling in Oracle v. Google mean for the future GPL/GNUs? If we're lucky, and if wide Internet opinion is correct, it means more of the status quo -- and that's a good thing if you're an open-source community developer. For a case that's worth billions of.....

CIRCUIT SPLIT OVER MADONNA COPYRIGHT CASE TIPPED TO GO TO SUPREME COURT
via Managing IP by Michael Loney on 6/7/2016
URL: http://www.managingip.com/Article/3560226/Circuit-split-over-Madonna-copyright-case-tipped-to-go-to-Supreme-Court.html

From the VMG Salsoul v Ciccone opinionThe plaintiffs alleged copyright infringement based on samples of snippets of horn lifted from the Salsoul ...

AGENCY CHALLENGES PEPSI OVER SUPER BOWL AD COPYRIGHT
URL: http://www.law360.com/ip/articles/804511

A Connecticut advertising agency says Pepsi's "Joy of Dance" Super Bowl halftime ad wasn't so super after all, alleging Tuesday in a New York federal lawsuit that the soft drink giant stole its idea to produce the showcase spot.

SPECIAL REPORT: ROUNDUP OF US COPYRIGHT OFFICE REVIEW OF COPYRIGHT LAW
via Intellectual Property Watch by Dugie Standeford on 6/8/2016

The United States Copyright Office is examining how provisions of the Digital Millennium Copyright Act (DMCA) and the 1976 Copyright Act are working and whether any changes, legislative or otherwise, are needed. Not surprisingly, there are broad differences of opinion among rights owners, public interest groups, users of copyrighted works and the high-tech community on both questions.
ED SHEERAN SUED FOR $20M FOR ALLEGEDLY COPYING SONG RELEASED BY 'X FACTOR' WINNER
URL: http://www.hollywoodreporter.com/thr-esq/ed-sheeran-sued-20m-allegedly-899827

The lawsuit over Sheeran's monster hit "Photograph" is filed by the same attorney who repped the Marvin Gaye family in the "Blurred Lines" copyright case.

RICHARD PRINCE SUED FOR USING SEX PISTOLS PHOTOS
via The Fashion Law on 6/8/2016
URL: http://www.thefashionlaw.com/home/richard-prince-sued-for-using-sex-pistols-photos

Richard Prince has been sued yet again for copyright infringement. After being named in two recent copyright suits, the artist has been hit with another ...

APPEALS FILED OF COPYRIGHT ROYALTY BOARD DECISION ON WEBCASTING ROYALTIES - WHAT'S NEXT?
via Lexology by David D. Oxenford on 6/8/2016
URL: http://www.lexology.com/library/detail.aspx?g=317cb75a-2133-4b61-b7be-f02d2cb1ea50

SoundExchange last week filed an appeal of the Copyright Royalty Board's decision on webcasting royalties (a decision which we summarized here ...

BEYONCE SUED FOR ALLEGEDLY LIFTING SHORT FILM TO CREATE 'LEMONADE' TRAILER
URL: http://www.hollywoodreporter.com/thr-esq/beyonce-sued-lemonade-trailer-900935

The plaintiff - a creative director at a news station - claims that a member of the pop superstar's team has acknowledged seeing his work

BEYONCE RIPPED OFF 'LEMONADE' TRAILER, SUIT SAYS
URL: http://www.law360.com/ip/articles/805190

Beyonce was hit with a copyright infringement lawsuit Wednesday accusing her of copying a Kentucky man's short film with the trailer for her smash hit visual album "Lemonade."
ORACLE FAILS TO OVERTURN GOOGLE'S FAIR USE TRIAL WIN
URL: http://www.law360.com/ip/articles/805137

The federal judge who oversaw last month's $8.8 billion copyright trial between Oracle and Google refused Wednesday to overturn Google's victory in the case, paving the way for an anticipated appeal to the Federal Circuit.

ED SHEERAN FACES $20M COPYRIGHT ROW OVER 'PHOTOGRAPH'
URL: http://www.law360.com/ip/articles/805102

British singer Ed Sheeran violated U.S. copyright laws by basing a portion of his hit song "Photograph" on a chorus from another song without first obtaining permission, according to a complaint by two songwriters who seek at least $20 million in damages.

TORCHED BURNING MAN BUS DIDN'T VIOLATE ART LAW, 9TH CIRC. SAYS
URL: http://www.law360.com/ip/articles/805061

A unanimous Ninth Circuit panel held Wednesday that the creators of a ship replica at the Burning Man Festival that was later torched and destroyed cannot obtain relief under the Visual Artists Rights Act since the structure is "applied art" and not eligible for protection.

EA ON HOOK EVEN IF 'SIMS' IP NO 'MONA LISA,' 9TH CIRC. TOLD
URL: http://www.law360.com/ip/articles/803612

Direct Technologies LLC urged the Ninth Circuit Wednesday to revive its copyright and trade secrets suit against Electronic Arts over allegedly stolen designs for a "Sims" tie-in USB drive, arguing the drive, even if not "the Mona Lisa," is clearly original enough for copyright protection.

MICROSOFT HIJACKED CHINESE CO.'S FONT IP, 9TH CIRC. TOLD
URL: http://www.law360.com/ip/articles/805075

A Chinese software company on Wednesday urged the Ninth Circuit to revive its suit alleging Microsoft has illegally used its copyrighted fonts in generations of computer operating systems, arguing their 1995 licensing deal was only intended to cover Microsoft products that existed at that time.
SHAKIRA COPYRIGHT CASE NETS SONY $400,000 ATTY FEES
URL: http://www.law360.com/ip/articles/805453

Sony Corp. won $400,000 in legal fees Thursday after beating a copyright lawsuit over a hit Shakira song that was later revealed to be based on fabricated evidence, far less than the nearly $750,000 the company wanted.

COPYRIGHT LAW SHOULD PLAY FAIR
URL: http://thehill.com/blogs/congress-blog/politics/282898-copyright-law-should-play-fair

Last Congress, the House Judiciary Committee launched a comprehensive review of the Copyright Act to examine how the law is faring in the digital ...

5 DMCA MYTHS THAT JUST WON'T DIE
via The Illusion of More by David Newhoff on 6/10/2016
URL: http://illusionofmore.com/5-dmca-myths-just-wont-die/

I read several complaints on Twitter and in various blog posts from OSP representatives and copyright critics that last month's USCO-hosted discussions in San Francisco about Section 512 were not very productive and that the rights holders are not being reasonable.

JUDGE BLASTS ORACLE'S ATTEMPT TO OVERTURN PRO-GOOGLE JURY VERDICT
via Ars Technica by Joe Mullin on 6/10/2016
URL: http://arstechnica.com/tech-policy/2016/06/judge-blasts-oracles-attempt-to-overturn-pro-google-jury-verdict/

Google successfully made its case to a jury last month that its use of Java APIs in Android was "fair use," and the verdict rejected Oracle's claim that the mobile system infringed its copyrights.

SHORT SAMPLINGS OF SONGS MAY NOT BE CONSIDERED COPYRIGHT INFRINGEMENT AFTER ALL
URL: http://www.natlawreview.com/article/short-samplings-songs-may-not-be-considered-copyright-infringement-after-all

The Ninth Circuit Court of Appeals just decided that sampling a song without permission does not necessarily infringe the copyright. Many artists have built careers by sampling an old song to create a new work. Until now, courts have told the artist to "get a license or do not sample."
HOLLYWOOD STUDIOS FILE SUIT AGAINST SERVICE STREAMING $1 MOVIES

Warner, Fox and Disney want an injunction against VidAngel, which sells films for $20 before buying them back for $19.

WHY IS YOUTUBE SUCH A GARBAGE DUMP?
via Vox Indie by Ellen Seidler on 6/10/2016
URL: http://voxindie.org/why-is-youtube-such-a-garbage-dump/

YouTube is great for finding videos about pretty much everything.

9TH CIRC. RIPS PRENDA LAW FOR 'COPYRIGHT TROLLING'
via Intellectual Property Law360 by Bill Donahue on 6/10/2016
URL: http://www.law360.com/ip/articles/806016

The Ninth Circuit on Friday issued a long-awaited ruling on the notorious Prenda Law, blasting the operators of the defunct firm for abusive "copyright trolling" and affirming a decision that said they should face criminal prosecution.

DISH COPYRIGHT SUIT COVERAGE FIGHT BELONGS IN NY, COURT TOLD
via Intellectual Property Law360 by Jeff Sistrunk on 6/10/2016
URL: http://www.law360.com/ip/articles/806208

Dish Network on Friday urged a New York federal court to forbid Ace American Insurance Co. from proceeding with a parallel lawsuit in Colorado in their battle over coverage for copyright disputes with television broadcasters regarding the ad-skipping Hopper DVR.

AFTER COPYRIGHT SMACKDOWN, SONY GETS FEES IN SHAKIRA CASE
via Reuters by Andrew Chung on 6/10/2016
URL: http://www.reuters.com/article/ip-shakira-copyright-idUSL1N1921V5

A federal judge has awarded Sony Corp $400,000 in attorneys' fees after ruling that music publisher Mayimba Music Inc's claims that a hit song by pop ...
LED ZEPPELIN'S 'STAIRWAY TO HEAVEN' HEADED TO COURT IN INFRINGEMENT CASE
via Los Angeles Times by Randy Lewis & Joel Rubin on 6/11/2016

Or they may attempt to cite earlier precursors to both songs from the public domain, which could render moot the Wolfe estate's copyright claim.

RADIOHEAD VIDEO MAKES UNAUTHORIZED USE OF FICTIONAL CHARACTERS
via CPIP by Kevin Madigan on 6/11/2016
URL: http://cpip.gmu.edu/2016/06/11/radiohead-video-makes-unauthorized-use-of-fictional-characters/

Last month, Radiohead released their ninth studio album, A Moon Shaped Pool, after a five-year hiatus from recording.

RECENT CHANGES IN INSURANCE POLICY FORMS LEAVING COMPANIES EXPOSED TO RISK OF COPYRIGHT CLAIMS
URL: http://www.ipwatchdog.com/2016/06/13/insurance-exposed-risk-copyright-claims/id=70002/

There has been a recent trend by insurance companies to change their policy forms and use language that provides substantially less coverage for these kinds of claims. Buyers of insurance might still see that the policies they're buying have "Advertising Injury" coverage that includes "copyright" claims. Nevertheless, these subtle changes to the actual language in the forms (which few policyholders ever actually read before buying their policy) eliminate most, if not all, of the benefits of the...

LATE FILINGS SEEK TO EXCLUDE LED ZEPPELIN'S EXPERT IN 'STAIRWAY TO HEAVEN' COPYRIGHT TRIAL
URL: http://www.hollywoodreporter.com/thr-esq/late-filings-seek-exclude-led-902134

Court filings claim noted musicologist Lawrence Ferrara has a serious conflict of interest.
GOOGLE GOES TO BAT FOR TPP'S IP, INTERNET PROVISIONS
via Intellectual Property Law360 by Alex Lawson on 6/13/2016
URL: http://www.law360.com/ip/articles/806341

Google went public with its support for the Trans-Pacific Partnership on Friday, lauding the 12-nation accord for its provisions that liberalize the flow of data across national borders and for striking a delicate balance between copyright protection and sensible limitations.

STAIRWAY TO HEAVEN' TRIAL: JUDGE STRIKES LED ZEPPELIN MUSIC EXPERT REQUEST
via Hollywood Reporter - THR, Esq. by Ashley Cullins on 6/13/2016
URL: http://www.hollywoodreporter.com/thr-esq/stairway-heaven-trial-judge-strikes-902489

Plus: Can an attorney play electric guitar to prove his client's point?

LED ZEPPELIN EXPERT MUST BE NIXED OVER CONFLICT, COURT TOLD
URL: http://www.law360.com/ip/articles/806434

The trustee of the estate suing Led Zeppelin for copyright infringement over the group's hit "Stairway to Heaven" asked a California federal judge in a last-minute filing before trial to bar the band's music expert from testifying and impose sanctions, alleging a conflict of interest.

RIMINI STUCK WITH $50M JURY VERDICT IN ORACLE COPYRIGHT SUIT
URL: http://www.law360.com/ip/articles/806729

A Nevada federal judge on Monday upheld a $50 million judgment against Rimini Street Inc. for copyright infringement and unauthorized access of several Oracle products, rejecting Rimini's contentions that California and Nevada computer-crime laws are unconstitutional.

9TH CIRCUIT UPHOLDS SANCTION AGAINST 'COPYRIGHT...
via ABA Journal by Debra Cassens Weiss on 6/14/2016
URL: http://www.abajournal.com/news/article/9th_circuit_upholds_sanction_against_copyright_trollin g_lawyers_who_sued_po

The lawyers, through their law firm, set up shell companies that purchased copyrights to pornographic movies. When someone illegally downloaded ...
Once again, drawing on the data from the 2015 Sisk study: Rank Name School Citations Age in 2016

1. Mark Lemley
   Stanford University
   2400
   50...

ROCK BAND SEEKS JUDICIAL DECLARATION THAT WOODY GUTHRIE'S 'THIS LAND' IS IN PUBLIC DOMAIN

The attorneys who fought to free "Happy Birthday" from copyright control have a new target.

JURY CHOSEN IN 'STAIRWAY TO HEAVEN' TRIAL

Led Zeppelin rockers Robert Plant and Jimmy Page are in court.

IGNORE PRE-1972 'REMASTER' RULING, NY JUDGE HEARS

Song owners suing CBS Corp. for not paying royalties on tracks recorded before 1972 urged a New York federal judge Monday to ignore a novel ruling in California last month that "remastered" versions of the old songs don't count as pre-1972 songs, saying that decision doesn't bar "a different decision in this case."

THIS LAND' IS PUBLIC DOMAIN, SUIT SAYS

A New York rock band has filed a class action aimed at proving that the iconic folk song "This Land Is Your Land" is free for all to use - with the help of the same attorneys who recently won a similar battle over "Happy Birthday to You."
THE RIAA WRITES TO JUDGE ABOUT CONTROVERSIAL RULING OVER REMASTERED SOUND RECORDINGS

The record giants pick a side in a hot dispute over the performance of pre-1972 songs.

COWEN WANTS FIRM DQ'D IN OIL TRADE PUBLISHER COPYRIGHT FIGHT
URL: http://www.law360.com/ip/articles/807000

A unit of asset manager Cowen Group Inc. on Tuesday asked a New York federal judge to disqualify a former Reed Smith LLP attorney and his new firm Powley & Gibson PC from representing an energy industry trade publication in a copyright fight, citing the lawyer's prior representation of Cowen.

OPENING STATEMENTS COULD LEAD TO "STAIRWAY TO HEAVEN" MISTRIAL
via Hollywood Reporter - THR, Esq. by Ashley Cullins on 6/14/2016
URL: http://www.hollywoodreporter.com/thr-esq/opening-statements-could-lead-stairway-902912

There's a dispute over whether a video played was properly submitted as evidence.

LED ZEPPELIN STOLE 'STAIRWAY' INTRO, JURY TOLD
via Intellectual Property Law360 by Daniel Siegal on 6/14/2016
URL: http://www.law360.com/ip/articles/797014

Led Zeppelin stole the famed opening riff of "Stairway to Heaven" from a song by the band Spirit and owes "credit where credit is due" and a slice of the mega hit's royalties, counsel for the estate of Spirit's deceased guitarist said Tuesday during opening statements in a California jury trial.

PHOTOGRAPHER SUES SPOTIFY OVER NOTORIOUS BIG PHOTO
via IP Pro by Tammy Facey on 6/15/2016
URL: http://ssrn.com/abstract=2589650

Spotify has been hit with a copyright infringement complaint from a photographer whose artwork of late musician Christopher Wallace, known as ...
The firm tried to hide the fact that its principals also owned the copyrights. Presumably, it feared that courts would be less willing to grant the orders if...

According to the complaint, as of May 16, 2016, Wolstenholme's application for U.S. copyrights to the "Charmed" series of jewelry is currently pending ...

The rocker says he first heard Spirit's "Taurus" when his son-in-law told him people were comparing it to "Stairway" a few years ago.

Mr. Page, 72, defended himself in court, saying that when he finally heard the song "Taurus" by the lesser-known group Spirit, it sounded "totally alien" to him.

However, we named it the Internet Creator's Guild because we do want to include bloggers, podcasters, artists, photographers, instagrammers...
LED ZEPPELIN'S JIMMY PAGE TELLS JURY 'STAIRWAY' NO RIP-OFF
URL: http://www.law360.com/ip/articles/807400

Led Zeppelin guitarist Jimmy Page took the stand Wednesday in the California federal jury trial over claims the band stole the famed opening riff of its 1971 mega-hit "Stairway to Heaven" from a song by the band Spirit, saying that until recently he'd never even heard the Spirit song.

E-BOOKS FAIR GAME FOR PUBLIC LIBRARIES, Says Advisor To Top Europe Court
via Ars Technica by Jennifer Baker on 6/16/2016

Electronic books should be treated just like physical books for the purposes of lending, an advisor to Europe's top court has said.

PARAMOUNT SAYS 'STAR TREK' FAN FILM LAWSUIT LIVES ON
URL: http://www.hollywoodreporter.com/thr-esq/paramount-says-star-trek-fan-903497

In the lawsuit over "Axanar," the studio acknowledges statements about a settlement, but tells a judge that claims remain pending.

IP SCHOLARS TO FCC: IT'S NOT ABOUT "THE BOX"
via CPIP by [AUTHOR] on 6/16/2016
URL: http://cpip.gmu.edu/2016/06/15/ip-scholars-to-fcc-its-not-about-the-box/

This past April, we joined other IP scholars in explaining how the FCC's proposed set-top box rules would undermine the property rights of creators and copyright owners. In reply comments filed last month, the EFF and a group of IP academics argued that the proposed rules would not implicate any copyright owners' exclusive rights. Yesterday, we filed an ex parte letter with the Commissioners pointing out why this is wrong. The full letter is copied below.

JUSTICES SAY 'UNREASONABLENESS' KEY TO COPYRIGHT ATTYS FEES
via Intellectual Property Law360 by Bill Donahue on 6/16/2016
URL: http://www.law360.com/ip/articles/802678

The U.S. Supreme Court on Thursday clarified when judges should award attorneys' fees to successful copyright litigants, ruling they should place heavy emphasis on whether the case is "objectively unreasonable" while still weighing other factors.
Barry Diller's Vimeo scores a win as the 2nd Circuit rules that safe harbor applies to pre-1972 recordings and isn't disqualified by employees who saw infringements.

In Kirtsaeng v. John Wiley & Sons (2016), the Supreme Court has vacated the Second Circuit's ruling denying attorney-fee awards in the copyright case - but offered a balanced opinion that places a number of limits on when fees may be awarded.

How long does a copyright owner have to bring suit for copyright infringement? The answer is three years from the date of the last infringement, regardless of when the very first infringement occurred. Copyright law follows the "separate-accretion rule," which provides for a new three-year statute of limitations each time an infringement occurs.

When I was in 8th Grade, I played the role of the Pirate King in Gilbert & Sullivan's 1880 operetta, The Pirates of Penzance, in which the King's foe, the ...
PRE-'72S COVERED BY DMCA SAFE HARBOR, 2ND CIRC. SAYS
via Intellectual Property Law360 by Bill Donahue on 6/16/2016
URL: http://www.law360.com/ip/articles/807779

The Second Circuit ruled Thursday that the Digital Millennium Copyright Act's safe harbors protect online hosts like Vimeo from liability even for so-called pre-1972 recordings that aren't covered by federal copyright law, saying a ruling to the contrary would "defeat the very purpose" of the law.

SUPREME COURT REVIVES $2M FEES DISPUTE IN COPYRIGHT CASE OVER RESOLD TEXTBOOKS
via Ars Technica by David Kravets on 6/16/2016

On Thursday, the Supreme Court provided nuanced guidance to lower courts in determining whether the prevailing party in a copyright lawsuit should be awarded attorney fees.

"STAIRWAY TO HEAVEN" TRIAL: JIMMY PAGE GETS QUIZZED ON MUSIC VOCABULARY
via Hollywood Reporter - THR, Esq. by Ashley Cullins on 6/16/2016
URL: http://www.hollywoodreporter.com/thr-esq/stairway-heaven-trial-jimmy-page-903641

The Led Zeppelin band member finishes his testimony and the court warns the plaintiff's attorney about wasting time.

SUPREME COURT RULES ON COPYRIGHT FEE SHIFTING

The decision is likely to be cited in most future copyright cases.

ATTYS REACT TO HIGH COURT'S COPYRIGHT ATTYS' FEES RULING
URL: http://www.law360.com/ip/articles/807754

The U.S. Supreme Court Thursday decided in Kirtsaeng v. John Wiley & Sons that to determine the award of attorneys' fees to successful copyright litigants a heavy emphasis should be placed on whether the case is "objectively unreasonable." Here, attorneys tell Law360 why the decision is significant.
DMCA WINS BIG IN RECORD LABEL LAWSUIT AGAINST VIMEO
via Ars Technica by David Kravets on 6/16/2016

A federal appeals court ruled Thursday that ISP's such as video-sharing sites are protected by the Digital Millennium Copyright Act for pre-1972 musical recordings uploaded by their users.

COPYRIGHT CASE AIMS TO BRING 'THIS LAND IS YOUR LAND' TO PUBLIC DOMAIN
via The Washington Times by Andrew Blake on 6/16/2016

Woody Guthrie's protest songs are memorable because he "was able to impart the human experience of the people," says a historian. (Associated ...)

SUPREME COURT RULES ON COPYRIGHT FEE SHIFTING
via Billboard by Jonathan Handel on 6/16/2016

Reviving a $2 million attorney fee dispute in a high-profile copyright case, the U.S. Supreme Court unanimously decided Thursday (June 16) that ... 

5 THINGS TO KNOW ABOUT HIGH COURT'S KIRTSAENG RULING
via Intellectual Property Law360 by Bill Donahue on 6/16/2016
URL: http://www.law360.com/ip/articles/807789

The U.S. Supreme Court issued its first copyright decision in nearly two years on Thursday, weighing in on the tricky question of when prevailing parties should be able to recoup their attorneys' fees from the losing side. Here are the five big things experts say you need to know about the ruling.

EXPERT TESTIMONY BEGINS AT "STAIRWAY TO HEAVEN" TRIAL
via Hollywood Reporter - THR, Esq. by Ashley Cullins on 6/16/2016

After Jimmy Page left the stand, music experts picked apart his work.
LED ZEPPELIN'S JIMMY PAGE HOLDS GROUND AT 'STAIRWAY' TRIAL
URL: http://www.law360.com/ip/articles/808097

Testifying for a second day in the California federal jury trial over claims Led Zeppelin stole the opening riff of "Stairway to Heaven" from the band Spirit, Zeppelin guitarist Jimmy Page successfully dodged opposing counsel's repeated efforts Thursday to corner him into describing the songs as similar.

WHO OWNS THE COPYRIGHT TO 'THIS LAND IS YOUR LAND'? IT MAY BE YOU AND ME
via NYT > Media & Advertising by Niraj Chokshi on 6/17/2016
URL: http://www.nytimes.com/2016/06/18/business/media/this-guthrie-song-is-your-song-a-lawsuit-claims.html

The law firm that put "Happy Birthday to You" into the public domain wants to do the same for this Woody Guthrie classic.

BAND LED ZEPPELIN SAYS SONG CHORDS TOO COMMON TO COPYRIGHT

Can you say "Stairway to Heavy Royalties?" You may have imagined the old Led heads, Robert Page and Jimmy Plant, sitting in a grungy garage somewhere back in the seventies striking those iconic four chords for the first time and truly crafting the song "Stairway to Heaven" from whence there was none. Now you may have to change that image and imagine them sitting in the front row of a Spirit concert feverishly jotting chord progressions down on a notepad.

NBC, DISH SETTLE LAST OF THE LAWSUITS OVER AD-SKIPPING DVR
URL: http://www.hollywoodreporter.com/thr-esq/nbc-dish-settle-last-lawsuits-903915

The parties have reached a settlement that will limit ad-skipping until after 7 days from a show's broadcast airing.
WHY DOING SOMETHING AS DULL AS COPYRIGHT REGISTRATION GIVES YOU STRONGER RIGHTS!
via Copyright Alliance by Sarah Howes on 6/17/2016
URL: https://copyrightalliance.org/2016/06/why_doing_something_dull_copyright_registration_gives_you_stronger_rights

It's overwhelming to think about all the things us entrepreneurs should be doing. We triage, we do.

SUPREME COURT REVISITS COPYRIGHT'S ATTORNEY FEE SHIFTS-KIRTSAENG V. WILEY
via Technology & Marketing Law Blog by Eric Goldman on 6/17/2016

The Copyright Act, 17 U.S.C. 505, has a discretionary "loser-pays" attorneys' fee shift. We've blogged repeatedly about abusive copyright enforcements where that fee shift provides a modicum of fairness to defendants (e.g., Inglewood v. Teixeira; Katz v. Chevaldina; Righthaven v. Leon).

SUPREME COURT CLARIFIES STANDARDS GOVERNING THE ATTORNEYS' FEES AWARDS IN COPYRIGHT LITIGATION

This morning, the Supreme Court issued its most recent ruling in Kirtsaeng v. John Wiley & Sons, Inc., unanimously holding that the "objective reasonableness" of an unsuccessful litigant's position should be accorded "substantial weight" when awarding attorneys' fees in copyright cases. The Court, however, also noted that this factor is not dispositive and district courts must examine a wide-array of other factors.

DID AEREO OPEN THE DOOR TO COMPULSORY LICENSES?
URL: http://www.law360.com/ip/articles/808189

Last year, a California federal judge held that FilmOn's internet retransmission service is entitled to a compulsory license under Section 111 of the Copyright Act, notwithstanding the rejection of this legal theory by numerous district courts and the Second Circuit. Now the Ninth Circuit must decide whether Section 111 is unambiguous and, if so, whether FilmOn's "facility" "makes
secondary transmissions” of broadcast signals or programs, say Andrea Weiss Jeffries and Elaine Zhong of WilmerHale.

TRICKY LAWYER TURNS DEFAMATION BATTLE INTO COPYRIGHT DISPUTE
via FindLaw Writ - Recent Articles by Casey C. Sullivan, Esq. on 6/17/2016

We have to hand it to Massachusetts attorney Richard Goren. When faced with a negative review on Ripoff Report, he didn't just win a defamation victory (alright, it was by default, so it's not too impressive), he convinced the court to transfer him ownership over the copyright of the......

FOX NEWS SAYS TVEYES IS 'NOTHING LIKE GOOGLE BOOKS'
URL: http://www.law360.com/ip/articles/808396

Fox News Network fired its opening shot Thursday in a closely watched copyright battle over the legality of media-monitoring service TVEyes, saying the television search engine is "nothing like" Google's book search service that was declared legal last year.

NBC, DISH SETTLEMENT FINALLY ENDS AD-SKIPPING DVR WAR
URL: http://www.law360.com/ip/articles/808198

Dish Network and NBC have reached a settlement to finally resolve more than four years of copyright litigation from the major networks over the satcaster's ad-skipping, place-shifting Hopper DVR.

NY TIMES SETTLES COPYRIGHT SUIT OVER FRONT-PAGE IMAGES
URL: http://www.law360.com/ip/articles/808216

The New York Times Co. and a small publisher have reached a settlement in a case in which the media giant alleged that images of 64 of its front pages were published in a book without permission.
Television monitoring service TVEyes, which indexes news clips and provides excerpts to subscribers, is not protected by fair use principles, Fox ...

The Second Circuit's long-awaited ruling Thursday on the Digital Millennium Copyright Act's safe harbor was a massive win for services like Vimeo and YouTube, striking down long-standing arguments from record labels that experts say could have been disastrous for hosts of user-generated content.

World Programming Ltd. owes a rival more than $79 million for breaching a licensing contract for computer programs, as a North Carolina federal judge on Friday denied the company's bid for a new trial and tripled SAS Institute Inc.'s damages award.

Superheros donning black robes save website operators from liability for users' copyright infringement of sound recordings fixed prior to 1972.
Authors of dramatic works (including playwrights, librettists, lyricists and composers) own their copyrights, but very few dramatists writing for the theater ...

The lawyers who successfully got "Happy Birthday" put into the public domain and then sued two months ago over "We Shall Overcome" have a new target: Woody Guthrie's "This Land."

Jimmy Page, Robert Plant and Warner Music argue the plaintiff has failed to carry a burden of proof on multiple issues.

Ace American Insurance Co. on Monday urged a New York federal court to dismiss Dish Network Corp.'s suit seeking coverage for copyright claims by television broadcasters regarding the ad-skipping Hopper digital video recorder, asserting that Dish engaged in "forum shopping" in an effort to avoid fighting the insurer in a parallel action in Colorado.
LED ZEPPELIN ASKS JUDGE TO PULL PLUG ON 'STAIRWAY' TRIAL
URL: http://www.law360.com/ip/articles/808816

Rock legends Led Zeppelin on Monday urged a California federal judge Monday to cut short the jury trial on claims that the band stole the intro to "Stairway to Heaven" from the band Spirit, arguing that the estate of Spirit's guitarist finished its case without getting in any evidence to support its claims.

11TH CIRC. FINDS FLOOR-PLAN COPYRIGHTS WERE NOT INFRINGED
URL: http://www.law360.com/ip/articles/808286

The Eleventh Circuit on Friday upheld Turner Heritage Homes Inc.'s win following a trial in a copyright case over architectural floor plans, though one judge said she believed the controlling case law represented a "wrong turn in our circuit's copyright jurisprudence."

TAYLOR SWIFT, PAUL MCCARTNEY PUSH FOR YOUTUBE COPYRIGHT REFORM
via Washington Examiner by Joshua Axelrod on 6/20/2016

A large group of music industry heavyweights are lining up to fight for reform of the Digital Millennium Copyright Act, which many feel doesn't ...

THE TURTLES, PRE-1972 COPYRIGHT WARRIORS, REISSUING THEIR OUT-OF-PRINT STUDIO ALBUMS
via Billboard on 6/20/2016

While legal battles over pre-1972 recordings wind their way through the courts, one of the artists taking the lead on whether copyright owners have ...

COPYRIGHT CLAIMS AGAINST 'STAR TREK' FAN FILM KLING ON
via WSJ.com: Law Blog - WSJ.com by Jacob Gershman on 6/21/2016
URL: http://blogs.wsj.com/law/2016/06/21/copyright-claims-against-star-trek-fan-film-kling-on/

Hollywood filmmaker J.J. Abrams drew cheers from Trekkies last month when he announced that a controversial copyright case against the makers of a crowd-funded Star Trek fan film was coming to an end.
MUSICIAN SAYS 'NBA 2K16' INFRINGES COPYRIGHTED SONG
URL: http://www.law360.com/ip/articles/809092

A musician sued the makers of the popular basketball video game series "NBA 2K" in California federal court Monday for copyright infringement, saying a version of the game includes samples of a song he wrote in 1978 that the company used without permission.

TAYLOR SWIFT, OTHERS USING PRINT MEDIA TO CALL OUT YOUTUBE ON COPYRIGHT
via Bloomberg BNA by Ellie Smith on 6/21/2016
URL: http://www.bna.com/taylor-swift-others-b5798207499/

Regulators from the U.S. Copyright Office said they would study provisions that protect services like YouTube when users upload infringing material.

SUPREME COURT EMPHASIZES OBJECTIVE REASONABLENESS FOR FEE AWARDS IN COPYRIGHT LITIGATION
URL: http://www.ipwatchdog.com/2016/06/21/supreme-court-objective-reasonableness-fee-awards-copyright-litigation/id=70261/

Justice Kagan stated as one primary factor that a District Court should put substantial weight on the reasonableness of the losing party's position. The lower courts are in a good position to review and administer this factor, and it encourages parties with meritorious positions to advance them. Justice Kagan quite rightly stated that this was not the only factor, and that other previously articulated factors set forth in Fogerty also need to be evaluated. These include the "frivolousness [of..."

TAYLOR SWIFT, OTHERS URGE CHANGES TO 'OUT-OF-DATE' DMCA
via Intellectual Property Law360 by Bill Donahue on 6/21/2016
URL: http://www.law360.com/ip/articles/809312

Nearly 200 musical artists, including top names like Taylor Swift and Paul McCartney, pressed lawmakers on Tuesday to reform the Digital Millennium Copyright Act, marking the music industry's latest push to change the oft-criticized law.
"STAIRWAY TO HEAVEN" TRIAL: ROBERT PLANT SAYS HE CAN'T REMEMBER SEEING SPIRIT PERFORM
via Hollywood Reporter - THR, Esq. by Ashley Cullins on 6/21/2016
URL: http://www.hollywoodreporter.com/thr-esq/stairway-heaven-trial-robert-plant-905078

His band is accused of ripping off a riff of Spirit's "Taurus" for "Stairway to Heaven."

TAYLOR SWIFT, 180 ARTISTS WANT COPYRIGHT REFORM
via USA Today by Mike Snider on 6/21/2016

Taylor Swift has faced down Apple and Spotify. Now, she is expressing bad blood with YouTube. Swift joined more than 180 artists and bands ...

ROBERT PLANT TESTIFIES IN 'STAIRWAY' COPYRIGHT TRIAL
via Courthouse News Service by Matt Reynolds on 6/21/2016

Led Zeppelin frontman Robert Plant took the stand on Tuesday to testify in the high-profile jury trial to decide whether ...

IS THE FCC'S "UNLOCK THE BOX" PLAN FOR CABLE TV IN TROUBLE?
URL: http://www.hollywoodreporter.com/thr-esq/is-fccs-unlock-box-plan-905240

A swing vote at the regulatory agency talks about "real flaws" in the original plan and hints at support for an emerging alternative proposal from the cable industry.

WHAT ATTYS NEED TO KNOW ABOUT THE HIGH COURT'S 3 IP RULINGS
URL: http://www.law360.com/ip/articles/809110

The U.S. Supreme Court opened the door for patent owners to win large damages awards in patent cases more often, endorsed the Patent Trial and Appeal Board's rules for America Invents Act reviews and clarified when copyright litigants can recover attorneys' fees. Here's a look at the high court's three intellectual property decisions from this term and what they mean for attorneys.
ZEPPELIN'S ROBERT PLANT CRACKS UP COURT AS TRIAL NEARS END

URL: http://www.law360.com/ip/articles/809447

Led Zeppelin frontman Robert Plant got jurors laughing as testimony wrapped Tuesday in the California federal copyright trial over "Stairway to Heaven," saying he has "no recollection of mostly anyone" he may have met 40 years ago, and doesn't remember seeing or meeting the band Spirit, from whom Zeppelin allegedly stole the intro to their hit.

TVEYES V FOX A HUGE DEAL FOR COPYRIGHT

via The Illusion of More by David Newhoff on 6/22/2016
URL: http://illusionofmore.com/tveys-v-fox-huge-deal-copyright/

One of the most important copyright cases in the country landed at the Second Circuit Court of Appeals in December of 2015. Appellants TVEyes and Fox News Network filed opening briefs, each seeking new rulings after the Court for the ... Continue reading ?

DISNEY SUES CHINESE FIRMS IN COPYRIGHT ROW


Walt Disney has taken three Chinese companies to court in a copyright infringement lawsuit centring on its movie "Cars". In a lawsuit filed at the ...

CAPITOL RECORDS V. VIMEO: COURTS SHOULD STOP CODDLING BAD ACTORS IN COPYRIGHT CASES

URL: http://www.ipwatchdog.com/2016/06/22/capitol-records-vimeo-copyright/id=70288/

Just how much knowledge about piracy on its system does an online service provider need before it loses its safe harbor protection, which severely limits its potential liability for copyright infringement, under the Digital Millennium Copyright Act (DMCA)? In Capitol Records v. Vimeo, the Second Circuit sets the bar very high, further blurring one of most important lines in copyright law-the line between actual and red flag knowledge-and protecting a not-so-innocent service provider in the...
YOUTUBE'S "BAD BLOOD" WITH MUSICIANS OVER COPYRIGHT REFORM
via CBS News on 6/22/2016

YouTube argues it notified record companies when copyrighted music is uploaded and they can order it removed. But it said companies choose to ...

DISNEY SUES CHINESE COMPANIES OVER COPYRIGHT INFRINGEMENT
via The Hindu Business Line on 6/22/2016
URL: http://www.thehindubusinessline.com/news/world/disney-sues-chinese-companies-over-copyright-infringement/article8760812.ece

Disney Enterprises Inc. and Pixar, holders of the copyrights of animated comedies Cars and Cars 2 as well as the character images, sued G-Point in ...

JURY DELIBERATIONS BEGIN IN "STAIRWAY TO HEAVEN" COPYRIGHT TRIAL
via Hollywood Reporter - THR, Esq. by Ashley Cullins on 6/22/2016
URL: http://www.hollywoodreporter.com/thr-esq/jury-deliberations-begin-stairway-heaven-905595

After a week's worth of testimony and closing arguments, a verdict will come soon on whether Led Zeppelin's biggest song infringes Spirit's "Taurus."

ARTISTS AND GROUPS DEMAND DMCA REFORM
via IPPro The Internet by Tammy Facey on 6/22/2016

The US Copyright Office is also conducting a public consultation on the effectiveness of the DMCA notice-and-takedown process, although experts do ...

DISH INSISTS COPYRIGHT SUIT COVERAGE ROW BELONGS IN NY
via Intellectual Property Law360 by Kat Sieniuc on 6/22/2016
URL: http://www.law360.com/ip/articles/809668

Dish Network Corp. told a New York federal judge Tuesday that Ace American Insurance Co. jumped the gun in filing its parallel suit in Colorado federal court over copyright claims regarding Dish's ad-skipping Hopper digital video recorder, maintaining that the Empire State is the suit's proper home.
STAIRWAY TO HEAVEN' CREDIT IN JURY'S HANDS AS TRIAL CLOSES
URL: http://www.law360.com/ip/articles/809963

Led Zeppelin must pay for stealing the intro to "Stairway to Heaven" from a song by the band Spirit, the trust of Spirit's late guitarist told a California federal jury during closing arguments in the copyright trial Wednesday, but the British rockers countered that the trust is distorting the evidence.

MARSHA BLACKBURN JOINS TAYLOR SWIFT, OTHER ARTISTS IN PUSH FOR DIGITAL COPYRIGHT REFORM
via WKRN on 6/22/2016

Congresswoman Marsha Blackburn is joining Taylor Swift and other artists in the push for digital copyright reform.

MTN FACES ANOTHER NIGERIAN FINE: $56M FOR RING-BACK TONE COPYRIGHT INFRINGEMENT
via AFK Insider by Dana Sanchez on 6/22/2016
URL: http://afkinsider.com/128380/mtn-faces-another-nigerian-fine-56m-for-ring-back-tone-copyright-infringement/

Dial a random phone number in Nigeria and you're more likely to hear music than a standard repetitive ring. That's because ring-back tones are the ...

ROBOTS ALLOWED TO TRADE MONEY AND CLAIM COPYRIGHT ON THEIR WORK UNDER RADICAL NEW EU PLANS
via Mirror by Scott Campbell on 6/23/2016
URL: http://www.mirror.co.uk/news/world-news/robots-allowed-trade-money-claim-8265094

Robots could be freed from their human masters and handed the power to own possessions under radical new EU plans. Officials want to have ...
FAR FROM FAIR USE: FOX NEWS V TVEYES
via Copyright Alliance by Terry Hart on 6/23/2016
URL: https://copyrightalliance.org/2016/06/far_fair_useFox_news_v_tveys

The Second Circuit is set to consider Fox News v TVEyes, on appeal from the Southern District Court of New York, which held that the wholesale copying and delivery of high-resolution television clips to paying subscribers is fair use.

GOOGLE WANTS $4M IN COSTS FROM ORACLE AFTER COPYRIGHT TRIAL
URL: http://www.law360.com/ip/articles/810257

Google on Wednesday asked for a whopping $3.9 million in costs after defeating Oracle's $8.8 billion software copyright lawsuit in a blockbuster trial last month.

ADVERTISER PLEDGE SETS EXAMPLE OF ACCOUNTABILITY IN THE FIGHT AGAINST PIRACY
via Mister Copyright by Kevin Madigan on 6/23/2016
URL: http://mistercopyright.org/advertiser-pledge-sets-example-of-accountability-in-the-fight-against-piracy

It should come as no surprise that popular websites make money by hosting advertisements.

LED ZEPPELIN TRIUMPHS IN 'STAIRWAY' RIP-OFF TRIAL
URL: http://www.law360.com/ip/articles/809896

A California federal jury Thursday rejected claims that Led Zeppelin stole the famed opening riff of their 1971 megahit "Stairway to Heaven" from a song by the band Spirit, handing the legendary English rock band a victory in the high-profile trial a day after closing arguments.

LED ZEPPELIN WINS 'STAIRWAY TO HEAVEN' JURY TRIAL
URL: http://www.hollywoodreporter.com/thr-esq/led-zeppelin-wins-stairway-heaven-905866

A jury rules in the band's favor after hearing testimony and arguments that the iconic song was a copyright infringement of Spirit's "Taurus."
JURY SAYS LED ZEPPELIN DID NOT RIP OFF "STAIRWAY TO HEAVEN"
via Ars Technica by David Kravets on 6/23/2016

A federal jury in Los Angeles on Thursday cleared Led Zeppelin of allegations that the band infringed the opening of the classic rock song "Stairway to Heaven."

EX-REED SMITH ATTY REBUTS DQ ATTEMPT IN COPYRIGHT CASE
URL: http://www.law360.com/ip/articles/810108

A Powley & Gibson PC attorney representing an energy trade publication in its copyright suit against a Cowen Group Inc. unit told a New York federal court Wednesday that he can't stand by while his character is attacked as part of a bid to disqualify him for allegedly representing Cowen when at Reed Smith LLP.

LED ZEPPELIN DID NOT STEAL 'STAIRWAY TO HEAVEN,' JURY SAYS

A federal jury said the hit song did not contain enough similarities to "Taurus," a song released three years earlier by the band Spirit.

COMPUTER-GENERATED WORKS OUTSIDE THE BOX
via The Laboratorium by James Grimmelman on 6/23/2016
URL: http://2d.laboratorium.net/post/146367490860

In October, I participated in a delightful conference at Columbia's Kernochan Center on "Copyright Outside the Box."

PRE-1972 SONGS PROTECTED BY STATE LAWS, RIAA TELLS COURT
URL: http://www.law360.com/ip/articles/810025

Even if remastered versions of musical tracks recorded before 1972 were to qualify for federal copyright protection as derivative works, a patchwork of copyright-like state laws would still apply to the songs, the Recording Industry Association of America argued in New York federal court on Wednesday.
WHO'S ON FIRST?’ APPEAL LOOKS LIKE CLOSE CALL IN 2ND CIRC.
URL: http://www.law360.com/ip/articles/810365

The Second Circuit on Thursday seemed to view the dismissal of a suit filed by the estate of comedy duo Abbott and Costello against the producers of a Broadway play featuring their famous "Who's on First?" routine as a close question, with one appellate umpire suggesting the copyright dispute should have proceeded to discovery.

CBS, PARAMOUNT TELL 'STAR TREK' FANS HOW THEY CAN MAKE FAN FILMS WITHOUT GETTING SUED
URL: http://www.hollywoodreporter.com/thr-esq/cbs-paramount-tell-star-trek-905960

In the midst of a lawsuit targeting a crowdfunded film, the two studios give 10 conditions.

LOSING ATTY FIGHTS $195K IN FEES IN JAY Z COPYRIGHT SUIT
URL: http://www.law360.com/ip/articles/810201

The former attorney for a sound engineer who unsuccessfully sued rap superstar Jay Z for copyright infringement said he shouldn't be personally held liable for a $195,000 fees award, telling a New York federal judge on Wednesday that this could ruin his career.

KIRTSANG II: FEES IN COPYRIGHT CASES DEPENDS ON REASONABLENESS OF LITIGATION POSITION
URL: http://www.natlawreview.com/article/kirtsaeng-ii-fees-copyright-cases-depends-reasonableness-litigation-position

In its second opinion in the copyright dispute between Kirtsaeng and book publisher Wiley & Sons, the Supreme Court of the United States has ruled that attorneys' fee awards under 17 USC § 505 should be largely left to the discretion of the district courts to "make a particularized case-by-case assessment" without relying on a presumption one way or the other.
A "STAIRWAY TO HEAVEN" APPEAL WOULD BE A FRUITLESS CLIMB, ATTORNEYS SAY
URL: http://www.hollywoodreporter.com/thr-esq/a-stairway-heaven-appeal-would-905922

The unanimous jury verdict in favor of Led Zeppelin would be tough to overturn.

CBS ISSUES PRIME DIRECTIVE FOR 'STAR TREK' FAN FILMS' IP USE
URL: http://www.law360.com/ip/articles/810479

CBS Studios and Paramount Pictures on Thursday gave "Star Trek" fan filmmakers a rule book to keep from finding themselves hit with legal action, a month after the studios said they are trying to settle a prominent copyright suit against the maker of one such film.

LED ZEPPELIN WIN COULD BE A 'STAIRWAY' TO HELL FOR ACCUSER
URL: http://www.law360.com/ip/articles/810390

Led Zeppelin's successful copyright defense of "Stairway to Heaven" on Thursday should reassure defendants worried by another recent music industry verdict, and it could place the legendary rock band among the first to use a freshly published U.S. Supreme Court decision to stick its accuser with its legal fees.

PAGE AND PLANT'S WIN IN 'STAIRWAY TO HEAVEN' CASE SEEN AS BOLSTERING SONGWRITERS' CREATIVE RIGHTS

Thursday's verdict for Led Zeppelin in the copyright trial over the 1971 hit song "Stairway to Heaven" reaffirms the creative rights of songwriters while demonstrating the difficulties in pursuing infringement over sheet music, according to legal experts following the case.

CNN, JOURNALISTS' GROUP AND OTHERS SIDE WITH FOX AGAINST TVEYES
via MediaPost by Wendy Davis on 6/23/2016

Television monitoring service TVEyes is a "low-level plagiarist" that "imposes a huge economic impact on those who investigate and report the news," ...
CNN SAYS TVEYES MORE LIKE MELTWATER THAN GOOGLE BOOKS
URL: http://www.law360.com/ip/articles/810926

CNN, Hearst Television and others threw their weight behind Fox News on Friday in the network's effort to shut down media-monitoring service TVEyes, comparing the startup to so-called "clipping services" that have been declared illegal.

CBS AND PARAMOUNT ISSUE GUIDELINES TO 'STAR TREK' FANS
via FoxNews.com by Blanche Johnson on 6/24/2016

This comes after a fan funded film, "Axanar," stirred a lawsuit based on whether or not elements of the fan flick were copyrighted. On Thursday CBS ...

TELEVISION EDUCATION INC. FILES COPYRIGHT SUIT OVER MANUAL
via Northern California Record on 6/24/2016

Television Education Inc. filed a complaint on June 23 in the U.S. District Court for the Eastern District of California, Sacramento Division against ...

HYPOCRISY IS AS HYPOCRISY DOES IN COPYRIGHT FIGHT.
via The Illusion of More by David Newhoff on 6/25/2016
URL: http://illusionofmore.com/hypocrisy-is-as-hypocrisy-does-in-copyright-fight/

I recognize that it's vogue to malign the interests of copyright holders, particularly when various pundits recount anecdotes of sympathetic-sounding new creators who find themselves as defendants in a litigation. Recently, Andy at TorrentFreak published a lamentation on the excess ...

UNSWAYED BY AXANAR, CBS AND PARAMOUNT OFFER 10 RULES FOR FAN FILM MAKERS
via Ars Technica by Megan Geuss on 6/26/2016

CBS and Paramount, the two studios that own the rights to Star Trek, announced a list of 10 guidelines for fan film creators this week.

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THE MONKEY SELFIE CASE: APPLYING THE COMMON SENSE TEST  
via Hugh Stephens Blog on 6/27/2016  
URL: http://hughstephensblog.net/2016/06/27/the-monkey-selfie-case-applying-the-common-sense-test  

If an infinite number of monkeys on an infinite number of typewriters worked long enough they could produce the works of Shakespeare.

THE POSSIBLE EXTENSION OF RELATED RIGHTS TO PUBLISHERS IN EU COPYRIGHT  
via IPLJ by Peter Munnick on 6/27/2016  
URL: http://www.fordhamiplj.org/2016/06/27/23056/  

The European Commission has launched a public open consultation on 'the possible extension' of related rights to publishers.

'HAPPY BIRTHDAY TO YOU' IS ONE STEP CLOSER TO BEING IN THE PUBLIC DOMAIN  
URL: http://www.hollywoodreporter.com/thr-esq/happy-birthday-you-is-one-906549  

The song is expected to be officially freed in July.

WHY YOU'LL SOON HEAR A LOT MORE 'HAPPY BIRTHDAY' ON TELEVISION  
via Fortune by Michal Addady on 6/27/2016  
URL: http://fortune.com/2016/06/27/happy-birthday-to-you/  

Music publishing company Warner/Chappell Music has for years claimed that it owns the copyright to "Happy Birthday to You." That came to a halt this ...

HUCKABEE SETTLES 'EYE OF THE TIGER' IP INFRINGEMENT SUIT  
URL: http://www.law360.com/ip/articles/811571  

Former Republican presidential candidate Mike Huckabee's campaign has settled a copyright infringement suit in Illinois federal court that accused him of using the Grammy-winning song "Eye of the Tiger" at a rally supporting Kentucky county clerk Kim Davis without permission, according to a Monday media report.
$4.8M FEE BID STALLS 'HAPPY BIRTHDAY' PUBLIC DOMAIN DEBUT
URL: http://www.law360.com/ip/articles/811607

A California federal judge Monday said he would give final approval to a settlement putting "Happy Birthday" into the public domain, but held off so Warner/Chappell Music Inc. can bolster their opposition to a $4.62 million fee request from the copyright class action's prevailing attorneys.

TVEYES AND THE SCOPE OF FAIR USE
via Copyhype by Terry Hart on 6/28/2016

The Second Circuit is set to consider Fox News v TVEyes, with both parties having submitted their briefs (see Fox News brief and TVEyes brief).

US COURTS SPLIT ON LEGALITY OF MUSIC SAMPLING
via Intellectual Property Watch by Steven Seidenberg on 6/28/2016

De minimis non curat lex - the law does not concern itself with trifles. This venerable legal principle is applied throughout the world, but not in one part of US copyright law. Copying any part of a sound recording, no matter how tiny, is actionable copyright infringement, according to an eleven year-old US appellate court ruling. Following that ruling, pop star Madonna found herself sued because her hit song, Vogue, allegedly copied a fraction of a second of another song. That copyright infringement suit was thrown out on 2 June, however, when a different appellate court ruled that de minimis infringements of sound recordings do not create any liability. Now US copyright law is in a muddle.

A NEW STANDARD FOR ATTORNEYS' FEE AWARDS IN COPYRIGHT CASES
URL: http://www.law360.com/ip/articles/807986

While the U.S. Supreme Court's recent attorneys' fees decision in Kirtsaeng v. John Wiley & Sons - which directs lower courts to give significant weight to a losing party's objectively unreasonable litigation position - is likely to deter some meritless copyright litigation, the inability to collect a fee award from an impecunious litigant sometimes requires other methods of deterrence, say Barry Slotnick and Tal Dickstein of Loeb & Loeb LLP.
PRE-1972 'REMASTER' RULING HEADS TO 9TH CIRC.  
URL: http://www.law360.com/ip/articles/811611

Song owners who filed class action litigation against CBS over so-called pre-1972 recordings are heading to the Ninth Circuit to challenge a novel ruling last month that "remastered" versions of old tracks played over the airwaves aren't even pre-1972 songs in the first place.

SECOND CIRCUIT DEEPENS RED FLAG KNOWLEDGE CIRCUIT SPLIT IN VIMEO  
via CPIP by Devlin Hartline on 6/28/2016  

The Second Circuit's recent opinion in Capitol Records v. Vimeo is, to put it mildly, pretty bad.

TVEYES' SERVICE IS UNFAIR TO BROADCASTERS, 2ND CIRC. TOLD  
URL: http://www.law360.com/ip/articles/811572

Cable and broadcasting trade associations on Monday joined in on the closely watched Second Circuit copyright fight between media monitoring service TVEyes Inc. and Fox News Network, telling the court that redistributing content without compensation violates the fair use doctrine.

HILLARY CLINTON UNVEILS TECH PLATFORM  
URL: http://www.wsj.com/articles/hillary-clinton-to-unveil-platform-on-technology-1467108000

Democrat Hillary Clinton will release a wide-ranging "tech and innovation agenda" Tuesday, detailing plans to connect every household to high-speed internet and to develop the next generation of entrepreneurs.

POOJA BHATT: FIXING COPYRIGHT VIOLATION ON 'CABARET'  
via The Times of India on 6/28/2016  

Pooja Bhatt: Fixing copyright violation on 'Cabaret' ... Truth is my copyright has been violated on the film & we are fixing that," Pooja posted On Twitter.
Thus, the use of a celebrity's image in itself would not make Mr. West liable for copyright infringement. Rather, the lawsuit would be over Kanye's ...

Actor Richa Chadda starrer 'Cabaret' created a lot of buzz with its first look. But after the trailer and few song releases, the ...

US presidential candidate Hillary Clinton has issued highlights of her plan to boost the nation's competitiveness in and attention to technology, internet and innovation if elected. The platform hits many of the latest issues and buzzwords in those fields, continuing existing programs but also pushing further in some areas. Among the plans: appoint a chief [...]
POORN STUDIO THAT SUED THOUSANDS FOR PIRACY NOW FIGHTING ITS OWN LAWYER
via Ars Technica by Joe Mullin on 6/28/2016

For years now, a porn studio called Malibu Media has filed more copyright lawsuits than any other company.

CALIF. LAWMAKER DITCHES BID TO COPYRIGHT STATE RECORDS
via Courthouse News Service by Nick Cahill on 6/28/2016

A contentious proposal giving California complete copyright authorization over public records has been dismantled by ...

POORN COMPANY SAYS FLA. LAW FIRM BREACHED FIDUCIARY DUTY
URL: http://www.law360.com/ip/articles/812093

Miami law firm Lipscomb Eisenberg & Baker PL was sued Tuesday in California federal court by adult film production company Malibu Media LLC for alleged negligence, breach of fiduciary duty and fraudulent business practices related to its overseeing of the company's aggressive copyright enforcement program.

HOW TO AVOID BEING TARGETED BY A COPYRIGHT TROLL
URL: http://www.thefashionlaw.com/home/how-to-avoid-being-targeted-by-a-copyright-troll

Last fall, Fortune published an article addressing the rise in copyright trolls in the fashion industry. "Over the past few years, textile companies based ...

ANIMATED GIFS AND COPYRIGHT LAW
via IPLJ by Pieter Munnick on 6/29/2016
URL: http://www.fordhamiplj.org/2016/06/29/animated-gifs-copyright-law/

Few things convey emotion like an animated Graphics Interchange Format (GIF), and with almost 23 million GIFs posted to Tumblr everyday.
APPEALS COURT ASKS IF SOUND RECORDING RIGHTS CAN BE DIVESTED LIKE MAGIC TRICKS

It's the 11th Circuit's turn to wade into the legal fight over the performance of pre-1972 songs.

11TH CIRC. SENDS PRE-1972 CASE TO FLA. SUPREME COURT
URL: http://www.law360.com/ip/articles/812468

The Eleventh Circuit ruled Wednesday that the Florida Supreme Court, rather than a federal appeals court, should resolve the tricky question of whether radio companies like SiriusXM must pay royalties on songs recorded prior to 1972.

AMAZON INSPIRE REMOVES SOME CONTENT OVER COPYRIGHT ISSUES

Amazon Inspire, a resource site where teachers share lesson plans, removed three items after complaints that the products were copyrighted materials.

MAN SUES APPLE FOR $10 BILLION FOR ALLEGEDLY STEALING HIS DESIGNS FROM 1992
via Quartz by Ananya Bhattacharya on 6/29/2016

In 2014, Ross also filed to copyright his technical drawings with the U.S. ... alleges Apple misappropriated the ERD and infringed on the copyright.

ACTIVISION'S DMCA TAKEDOWN RESOLVED
via IPPro The Internet by Barney Dixon on 6/30/2016
URL: http://ipprotheinternet.com/ipprotheinternetnews/copyrightarticle.php?article_id=4973

Videogame Publisher Activision's takedown and copyright claim against sci-fi shooter Orion has been resolved. The Digital Millennium Copyright Act ...

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MARRAKESH TREATY ENTERS INTO FORCE
via YouTube by wipo on 6/30/2016
URL: https://www.youtube.com/watch?v=t9xRoJlGyRKg

WIPO Director General Francis Gurry reacts to the entry into force of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled. Canada deposited the key 20th instrument of accession on June 30, 2016.

EXAMINER.COM SAILS TO VICTORY IN DMCA SAFE HARBOR - DIGITAL MILLENNIUM COPYRIGHT ACT

Addressing whether the owner of a media website could invoke the safe harbor provision of the Digital Millennium Copyright Act (DMCA), the US Court of Appeals for the 10th Circuit affirmed the district court's grant of summary judgment in favor of the owner of Examiner.com, noting that the defendant, an internet service provider (ISP), did not have actual or circumstantial knowledge of the plaintiff's photographs that were posted to its website by independent contractors.

WIPO TREATY ON COPYRIGHT EXCEPTIONS FOR VISUALLY IMPAIRED ENTERS INTO FORCE
via Intellectual Property Watch by Catherine Saez on 6/30/2016

The World Intellectual Property Organization treaty to facilitate access to books in special formats for visually impaired people will enter into effect, as the 20th member state acceded to the treaty today.

STRANGE RULINGS AT THE SECOND CIRCUIT
via The Illusion of More by David Newhoff on 6/30/2016
URL: http://illusionofmore.com/strange-rulings-second-circuit/

The Second Circuit Court of Appeals handed down opinions on June 16th with two important implications—one that looks like legislating from the bench by ignoring Section 301(c) of the Copyright Act and another that appears to create a split with the Ninth Circuit over interpretation of what's called "red flag" knowledge referring to § 512(c) of the DMCA.
JUSTICE DEPARTMENT WON'T ALTER MUSIC INDUSTRY ROYALTY RULES
via NYT > Media & Advertising by Ben Sisario on 6/30/2016

Ascap and BMI, clearinghouses for royalties, say that modifying their consent decrees was urgently needed to adapt to the new world of online music.

NYIPLA SEMINAR: "HOT TOPICS IN INTELLECTUAL PROPERTY LAW" - JULY 20TH IN NYC
via The TTABlog® by John L. Welch on 6/30/2016
URL: http://thettablog.blogspot.com/2016/06/nyipla-seminar-hot-topics-in.html

The New York Intellectual Property Association will host a seminar entitled "Hot Topics in Intellectual Property Law" on Wednesday July 20, 2016, from noon to 5 PM, at the Princeton Club, 15 West 43rd Street, New York City. NY and NJ CLE credits are available, including ethics credits.

LEGISLATURE ENDS BID TO COPYRIGHT PUBLIC DOCUMENTS
via All Gov by Nick Cahill on 6/30/2016

A contentious proposal giving California complete copyright authorization over public records has been dismantled by lawmakers ...

YOUTUBE'S CONTENT ID EASILY FOOLED
via Vox Indie by Ellen Seidler on 6/30/2016
URL: http://voxindie.org/youtubes-content-id-easily-fooled/

Doing the job, but not a very good job When people talk about effective ways to mitigate the impact of online piracy, YouTube's Content ID is often used as an example of what works. Unfortunately, despite its role as poster boy for anti-piracy tech, in reality it falls flat as a gatekeeper against online piracy. Aside from [...]
On Wednesday, news hit the wire that a video game's indistinguishable logo and art style had been lifted without permission, all done to advertise a wholly unrelated product. Sadly, the news brought on a real case of deja vu. As in: wait, didn't this just happen?

Google Inc. is revisiting accusations that an attorney representing Oracle Corp. in its blockbuster Java code infringement suit against Google revealed confidential financial information in open court, telling a California federal court Wednesday it wants sanctions now that the trial is over.

A Maryland federal judge on Wednesday rejected Sinclair Broadcast Group's argument that it had an implied license to use a media consulting company style guide but did not agree the television company had acted with "actual malice" in a copyright infringement dispute.

It's been a big first half of the year in the world of copyright law, with major rulings on copyright trolling, pre-1972 recordings, music sampling and the fair use doctrine. Here are the seven you need to know about, and why.

Francis Malofiy's suspension might mean he can't appeal the band's "Stairway to Heaven" win.
COCA-COLA COMPANY ACCUSED OF COPYRIGHT INFRINGEMENT
via Penn Record by Louie Torres on 6/30/2016

A Pennsylvania company is suing The Coca-Cola Company, a consumer food manufacturer, citing alleged copyright infringement.

'HAPPY BIRTHDAY' COPYRIGHT SETTLEMENT GETS FINAL APPROVAL
URL: http://www.law360.com/ip/articles/813176

A California federal judge on Thursday gave final approval to a $14 million settlement that will place "Happy Birthday To You" in the public domain, bringing the copyright saga over the traditional tune to an official close, save for the issue of plaintiffs' attorney fees.
July 2016

HOW ORACLE'S BUSINESS AS USUAL IS THREATENING TO KILL JAVA
via Ars Technica by Sean Gallagher on 7/1/2016
URL: http://arstechnica.com/information-technology/2016/07/how-oracles-business-as-usual-is-threaten

Stop me if you've heard this one before: Oracle has quietly pulled funding and development efforts away from a community-driven technology where customers and partners have invested time and code.

HIGH SCHOOL SHOW CHOIR THAT INSPIRED 'GLEE' SUED FOR STEALING MUSIC
via Hollywood Reporter - THR, Esq. by Ashley Cullins on 7/1/2016
URL: http://www.hollywoodreporter.com/thr-esq/high-school-show-choir-inspired-907881

Burbank Show Choirs spent about $100K on costumes last year but didn't pay a dime to license the music they use, according to the lawsuit.

YOUTUBE TO CRITICS: MUSIC INDUSTRY'S FUTURE "BRIGHTER THAN EVER"
via Pitchfork by Marc Hogan on 7/1/2016

"While the recent concerns artists have made about the copyright safe harbor reflect a fear of losing money from ad-supported streaming, the truth is, ...

WORLD BLIND UNION OFFICIAL WELCOMES ENTRY INTO FORCE OF MARRAKESH TREATY
via YouTube by wipo on 7/1/2016
URL: https://www.youtube.com/watch?v=Ou8MLipPw2g

THREE YEARS LATER, DMCA STILL JUST AS BROKEN
via Mister Copyright by Matthew Barblan & Kevin Madigan on 7/1/2016
URL: http://mistercopyright.org/three-years-later-dmca-still-just-as-broken

In 2013, CPIP published a policy brief by Professor Bruce Boyden exposing the DMCA notice and takedown system as outdated and in need of reform.

3RD CIRC. AFFIRMS SUSPENSION OF LED ZEPPELIN CASE ATTY
URL: http://www.law360.com/ip/articles/813260

The song remained the same Thursday for the attorney who recently lost the "Stairway to Heaven" copyright infringement suit when the Third Circuit upheld a district court order suspending him for three months and a day.

GWEN STEFANI AND BRUNO MARS SEND COPYRIGHT LAW REFORM REQUEST TO EU
via iNews by Luke Barber on 7/1/2016

Gwen Stefani is one of thousands of artists that claim video sharing website YouTube is not being held to account for the copyright infringement ...

RANDOM HOUSE, FOX ESCAPE AUTHOR'S 'MAZE RUNNER' IP SUIT
via Intellectual Property Law360 by Kurt Orzeck on 7/1/2016
URL: http://www.law360.com/ip/articles/813262

A New Mexico federal judge on Thursday tossed an author's suit accusing Random House, Twentieth Century Fox and others of infringing his copyrighted novel with "The Maze Runner," a young-adult science-fiction book that was adapted into a major motion picture.

NINTENDO TAKES DOWN NES VISUAL COMPENDIUM KICKSTARTER
via IGN by Wesley Copeland on 7/1/2016
URL: http://www.ign.com/articles/2016/07/01/nintendo-takes-down-nes-visual-compendium-kickstarter

"This Kickstarter project makes unauthorized use of Nintendo's copyrights as noted above [on the Kickstarter page]. The description of the book states ...
DOJ SNUBS ASCAP, BMI ON PARTIAL MUSIC RIGHTS LICENSING
via Intellectual Property Law360 by Jeff Zalesin on 7/1/2016
URL: http://www.law360.com/ip/articles/813271

The U.S. Department of Justice has decided that the antitrust consent decrees governing ASCAP and BMI currently require the music rights giants to license full works instead of partial interests in compositions, and the agency wants to hold the organizations to that rule, ASCAP said Thursday.

GWEN STEFANI AND BRUNO MARS ASK EU TO CHANGE COPYRIGHT LAWS
via WIPR on 7/4/2016

Singers Gwen Stefani and Bruno Mars have urged the EU to alter copyright laws that allow services like YouTube to profit from their music. Stefani and ...

GOOGLE TWISTS THE KNIFE, ASKS FOR SANCTIONS AGAINST ORACLE ATTORNEY
via Ars Technica by Joe Mullin on 7/4/2016
URL: http://arstechnica.com/tech-policy/2016/07/following-courtroom-win-google-wants-sanctions-against-oracle-lawyer/

The second Oracle v. Google trial drew to a close in May, when a jury found that Google's use of certain Java APIs wasn't a copyright infringement.

US FIRM FILES COPYRIGHT INFRINGEMENT CASE AGAINST 63 MOONS TECHNOLOGIES
via The Economic Times by PTI on 7/4/2016

... infringement of copyright of its software with reference to the licence agreement entered into with them since 2008, a BSE communiqué said here.

NO COPYRIGHT IN DIGITAL BROADCAST STREAMS
via IP Pro The Internet by Barney Dixon on 7/4/2016
URL: http://ipprotheinternet.com/ipprotheinternetnews/copyrightarticle.php?article_id=4979

Australia's Full Federal Court has confirmed digital data streams are not protected by the Copyright Act. The full panel upheld Justice Annabelle ...
BLIZZARD SUES 'CHEAT-MAKER' FOR BREACHING OVERWATCH COPYRIGHT
via Wired by Matt Kamen on 7/5/2016
URL: http://www.wired.co.uk/article/blizzard-sues-overwatch-cheat-maker-bossland

Blizzard claims Bossland has infringed on its copyrights in several ways, including allowing third parties to create derivative works based on the game.

COPYRIGHTS VERSUS PATENTS TO PROTECT SOFTWARE INNOVATIONS. IP FOR START-UPS, PART V. [VIDEO]

In this fifth "IP for Start-Ups" video, "Copyrights versus Patents to Protect Software Innovations", Mike discusses the pros and cons of using copyrights or patents to protect your software. There are advantages and challenges inherent in either approach, and Mike provides insights into each. He gives particular attention to the Alice Corp v CLS Bank Int'l decision at the US Supreme Court which made it much harder to patent software.

BLIZZARD FILES SUIT FOR COPYRIGHT INFRINGEMENT AGAINST OVERWATCH CHEAT DEVELOPER
via Gamasutra by Bryant Frances on 7/5/2016

Blizzard's moving the payload forward on a new lawsuit aimed at stopping hackers in Overwatch. Last week, the company filed suit in California ...

COPYRIGHT ROW CROPS UP BETWEEN TS, AP
via The Hindu by Adhra Pradesh on 7/5/2016

Another controversy between Telangana and Andhra Pradesh States appears inevitable with the former lodging a formal complaint against the latter ...
BLIZZARD HITS GERMAN CHEAT BOT MAKER WITH DMCA SUIT
URL: http://www.law360.com/ip/articles/813692

Blizzard Entertainment Inc., the video gaming giant behind "World of Warcraft," on Friday filed a copyright suit against a German maker of software "bots" that allow players to cheat in Blizzard games, including its recent blockbuster "Overwatch," alleging the bots violate the Digital Millennium Copyright Act and have cost Blizzard millions.

UK.GOV ROLLS OUT 10 YEARS' CHOKEY FOR INDUSTRIAL SCALE COPYRIGHT PIRATES
via The Register by Andrew Orlowski on 7/6/2016
URL: http://www.theregister.co.uk/2016/07/06/govt_wants_stiffer_copyright_penalty_for_heavy_duty_pirates/

This is in the hope that criminal copyright cases are actually brought under copyright law. Because the maximum sentence is currently only two years ... 

COPYRIGHT BATTLE RAGES ON AGAINST SIRIUS XM RADIO
via Courthouse News Service by Izzy Kapnick on 7/6/2016
URL: http://www.courthousenews.com/2016/07/06/copyright-battle-rages-on-against-sirius-xm-radio.htm

A challenge by 1960s rock band The Turtles to royalty-free broadcasts of their songs by Sirius XM Radio requires input from the Florida ... 

HOW TO MAKE YOUR COPYRIGHT-INFRINGING GAME LEGAL AGAIN
via IGN by Wesley Copeland on 7/6/2016
URL: http://www.ign.com/articles/2016/07/06/how-to-make-your-copyright-infringing-game-legal-again

By Wesley Copeland PinkApp created a 3D take on the ever-popular Five Nights at Freddy's (FNaF) series. But what happens when your game is a ...
CLINTON EQUIVOCATES SO MASNICK OBFUSCATES.
via The Illusion of More by David Newhoff on 7/6/2016
URL: http://illusionofmore.com/clinton-equivocates-masnick-obfuscates/

Last week, Hillary Clinton released her Initiative on Technology and Innovation, brief, which reads a bit like a missive from the Internet Association and does very little to clarify her own views—possibly because she doesn't have any on the role of ...

CORELOGIC BEATS COPYRIGHT SUIT OVER REAL ESTATE PHOTO INFO
via Intellectual Property Law360 by Matthew Bultman on 7/6/2016
URL: http://www.law360.com/ip/articles/814021

CoreLogic beat class action litigation that claimed the real estate research firm improperly altered property photos and removed information meant to curb copyright infringement as a California federal judge found there was a lack of evidence to back the claims.

NEW COPYRIGHT RULES OUTLAW BOOTLEG DVDS
via Cayman Compass by Charles Duncan on 7/6/2016
URL: https://www.caymancompass.com/2016/07/06/new-copyright-rules-outlaw-bootleg-dvds/

Bootleg DVDs are a common business in Cayman, with entire stores dedicated to copying and selling movies. Those businesses are preparing for the ...

ORACLE MOVES FOR NEW COPYRIGHT TRIAL AGAINST GOOGLE, RENEWS MOTION FOR JUDGMENT AS A MATTER OF LAW
via FOSS Patents by Florian Mueller on 7/6/2016
URL: http://www.fosspatents.com/2016/07/oracle-moves-for-new-copyright-trial.html

Despite the fact that Google's incorporation of more than 10,000 lines of Oracle's Java API declaring code into Android does not merely fall short of fair use criteria but is simply the exact opposite of fair use, a San Francisco jury, misguided by Judge William H. Alsup, misinformed by Google's manipulative attorneys and misled by questionable witnesses, found in favor of Google in May.

IP FIRM HALTS NOVEL COPYRIGHT CLASS ACTION
via The Recorder by Ben Hancock on 7/6/2016
URL: http://www.therecorder.com/id=1202761924977/IP-Firm-Halts-Novel-Copyright-Class-Action

Proving infringement on a classwide basis has proven difficult because it often involves individual-specific inquiries about whether the copyrights were ...
COPYRIGHT TROLL HANSMEIER AGREES TO SUSPENSION
via Minneosta Lawyer by Barbara L. Jones on 7/7/2016
URL: http://minnlawyer.com/2016/07/07/copyright-troll-hansmeier-agrees-to-suspension/

Enter your user name and password in the fields above to gain access to the subscriber content on this site. Your subscription includes one set of login ...

ORACLE SEEKS TO REVIVE COPYRIGHT SUIT AGAINST GOOGLE
via The Recorder by Ross Todd on 7/7/2016
URL: http://www.therecorder.com/home/id=1202762025846/Oracle-Seeks-to-Revive-Copyright-Suit-Against-Google

A San Francisco federal jury sided with Google in late May, finding that the company had made fair use of Oracle's copyrighted material when building ...

DARLENE LOVE SUES SCRIPPS FOR USING CHRISTMAS SONG WITHOUT PERMISSION
via Hollywood Reporter - THR, Esq. by Ashley Cullins on 7/7/2016

The broadcaster used Love's voice singing "Christmas (Baby Please Come Home)" for HGTV ads without her consent, the suit claims.

COPYRIGHT CASES TO WATCH IN THE 2ND HALF OF 2016
via Intellectual Property Law360 by Bill Donahue on 7/7/2016
URL: http://www.law360.com/ip/articles/814459

It should be a fun second half of the year on the copyright front, with big cases on deck tackling issues ranging from protection for apparel to golden-oldie sound recordings to the fair use doctrine. Here are the cases attorneys say they'll be keeping a close eye on for the rest of 2016.

ORACLE SEEKS NEW TRIAL FOLLOWING GOOGLE'S FAIR USE VICTORY
via Intellectual Property Law360 by Suevon Lee on 7/7/2016
URL: http://www.law360.com/ip/articles/814919

Google Inc. concealed the scope of its plans to install Android operating technology on desktops and used Oracle's copyrighted Java software code for purely commercial reasons that negates its fair use defense against infringement, Oracle argued Wednesday in separate motions for a new trial and directed judgment following its May defeat at the hands of a California federal jury.
Although the type of copyright infringement that gets the most attention today in our digital age is the downloading of music and/or movies, infringement of print and picture medium (such as photographs) is also punishable under the Copyright Act, and are a very real problem for publishers and photographers alike. Indeed, copyright infringement is an [...]
BLIZZARD BLASTS OVERWATCH COPYRIGHT CHEATS
via IP Pro The Internet by Barney Dixon on 7/8/2016
URL: http://ipprotheinternet.com/ipprotheinternetnews/article.php?article_id=4990

The publisher of Overwatch has filed a complaint against the creator of cheat software for the hit videogame, claiming copyright infringement. Blizzard ...

WARNER WANTS $800K FEES AFTER LED ZEPPELIN COPYRIGHT WIN
via Intellectual Property Law360 by Bill Donahue on 7/8/2016
URL: http://www.law360.com/ip/articles/815283

Warner/Chappell Music Inc. asked for nearly $800,000 in attorneys' fees and costs on Thursday, following its victory last month over accusations that Led Zeppelin's "Stairway to Heaven" infringed an obscure rock song - one of the first big fee requests to cite the U.S. Supreme Court's recent ruling on the issue.

FOX NEWS FAIR USE CLAIM FOR FACEBOOK POST OF 9-11 IMAGE REMAINS UNRESOLVED
via Lexology by Michael L. Nepple on 7/8/2016
URL: http://www.lexology.com/library/detail.aspx?g=6e222862-7681-4621-b1cc-c7bef897c3cc

Earlier this year, just hours before beginning jury selection, Fox News settled a copyright dispute regarding its use of Thomas Franklin's iconic ...

CANADIAN LABELS SEE BUMP IN ROYALTIES FOLLOWING NEW COLLECTION SOCIETY EFFICIENCIES
via Billboard by Karen Bliss on 7/8/2016

In the U.S., the Copyright Office recently made it possible to file compulsory licenses digitally, which will lower the bureaucratic burden on several ...

LONG ISLAND COUPLE SUES NEIGHBORS FOR 'STEALING DESIGN OF $1.48M MANSION' THAT THEY HAD COPYRIGHTED
via Daily Mail on 7/8/2016
URL: http://www.dailymail.co.uk/news/article-3681776/Long-Island-couple-sues-neighbors-stealing-design-1-48m-mansion-copyrighted.html

Seth and Rivka Fortgang have brought legal action against the couple because they had copyrighted the design of their $1.48 million home. Rivka, an ...
YOUTUBE LEADS MUSIC CONSUMPTION WHILE PIRACY DIPS, ACCORDING TO UK GOVERNMENT SURVEY
via Billboard by Richard Smirke on 7/8/2016

Data was collected from over 5,000 recipients for the IPO report, which is the sixth edition of its "Online Copyright Infringement Tracker." Across all ...

DISNEY, MARVEL SAY 'IRON MAN 3' LOOK NOT STOLEN FROM RADIX
via Daily News by Barbara Ross on 7/9/2016
URL: http://www.nydailynews.com/entertainment/movies/disney-marvel-iron-man-3-not-stolen-radix-article-1.2704898

... suits of armor to fight enemies is simply not protectable under Hornbook copyright law - it is an idea that no one copyright plaintiff can monopolize; ...

LED ZEP LAWYERS WANT $800K FOR DEFENDING "STAIRWAY TO HEAVEN" LAWSUIT
via Ars Technica by David Kravets on 7/9/2016

Just weeks ago, Led Zeppelin defeated a Los Angeles federal copyright infringement lawsuit claiming the opening to the 1971 classic "Stairway to Heaven" was a rip-off of the 1968 instrumental song "Taurus."

SOCA'S FIRST COPYRIGHT INFRINGEMENT CASE
via Sunday Express by Nikita Braxton-Benjamin on 7/9/2016

A HIGH COURT judge will be asked to listen to two soca songs to determine whether the chorus of one of the songs was stolen from another ...

HOLLYWOOD DOCKET: WARNER BROS. SUED OVER BATCYCLE ROYALTIES
URL: http://www.hollywoodreporter.com/thr-esq/hollywood-docket-warner-bros-sued-909731

A roundup of some entertainment law developments including a $3.5 million judgment against ReDigi, an appellate decision on password sharing, and the NCAA at the Supreme Court.
NEW YORK PHOTOGRAPHER SUES BB KING ESTATE FOR COPYRIGHT INFRINGEMENT
via American Songwriter by Annie Adams on 7/11/2016

A New York-based photographer is suing the estate of blues legend B.B. King and Universal Music Group for copyright infringement.

CALIFORNIA ASSOC. OF REALTORS SUES PDFFILLER.COM FOR $136M FOR 'UNLAWFUL COPYRIGHT VIOLATIONS'
via HousingWire by Ben Lane on 7/11/2016

The California Association of Realtors claims that the website PDFfiller.com "willfully and unlawfully" copied, used, and sold its copyrighted materials ...

COPYCAMP 2016 OPEN CALL
via Intellectual Property Watch on 7/12/2016
URL: http://www.ip-watch.org/2016/07/12/copycamp-2016-open-call/

The Modern Poland Foundation is pleased to launch an Open Call for Speakers at the 5th International CopyCamp Conference (October 27-28, 2016 in Warsaw).

CHINA AND THE CONTENT INDUSTRY: FRIEND OR FOE? (PART TWO)
via Hugh Stephens Blog on 7/12/2016
URL: http://hughstephensblog.net/2016/07/12/china-and-the-content-industry-friend-or-foe-part-two

In my blog last week, I talked about the growing role of China as an essential revenue generator for foreign content producers.

CREATIVE PIPE MUST EXPLAIN DISCOVERY DELAYS, JUDGE SAYS
via Intellectual Property Law360 by Matthew Guarnaccia on 7/12/2016
URL: http://www.law360.com/ip/articles/816054

A Maryland federal magistrate on Monday said Creative Pipe Inc. needs to prove why it shouldn't be held in contempt in a copyright case against furniture maker Victor Stanley Inc. after it ignored court-ordered document requests and failed to pay more than $1 million in sanctions.
A FIGHT TO MAKE TWO CLASSIC SONGS COPYRIGHT FREE TO YOU AND ME
via NYT > Media & Advertising by Ben Sisario on 7/12/2016
URL: http://www.nytimes.com/2016/07/13/business/media/happy-birthday-is-free-at-last-how-about-we-shall-overcome.html

A firm that put "Happy Birthday" into the public domain now wants to rescind copyright protection for "We Shall Overcome" and "This Land Is Your Land."

PHOTOGRAPHER SUES PUBLISHER IN COPYRIGHT CASE
via PennRecord by Louie Torres on 7/12/2016

Michael Keller filed a complaint on July 8 in the U.S. District Court for the Eastern District of Pennsylvania against Pearson Education Inc., alleging that ...

WHAT WENT DOWN AT THE DOJ
via The Illusion of More by David Newhoff on 7/13/2016
URL: http://illusionofmore.com/what-went-down-at-the-doj/

"... last week a former Google lawyer at the DOJ anti-trust division against the recommendation of the US Copyright Office rammed through a 100% licensing rule that effectively brings the last of the "free" songwriters under the consent decree." ... Continue reading ?

ATTORNEY'S FEES: SUPREME COURT PROVIDES GUIDANCE ON AVAILABILITY OF ATTORNEY'S FEES AWARDS ...
via Lexology by Kenneth L. Chernof et al. on 7/13/2016
URL: http://www.lexology.com/library/detail.aspx?g=44602d2a-e256-4bc4-bb0a-3a7c0dd77bc5

The Copyright Act provides little guidance on the availability of attorney's fees, simply stating that courts "may . . . award a reasonable attorney's fee to ..."

BB KING ESTATE TARGETED IN COPYRIGHT ROW
via World IP Review on 7/13/2016

A US photographer is suing the estate of the late blues singer BB King and the artist's record label Universal Music for allegedly using unauthorised ...
FESTIVAL USES CC-LICENSED PIC WITHOUT ATTRIBUTION, PAYS THE PRICE  
via Ars Technica by Glyn Moody on 7/13/2016  

A CC-licensed photo that was incorrectly used in an Italian festival's promotional materials has led to a public apology by the organisers for not respecting the terms of the licence, and the reimbursement of legal costs incurred.

GOOGLE RESPONDS TO MUSIC BIZ CRITICS, POINTS TO $2B IT HAS PAID OUT  
via Ars Technica by Valendtina Palladino on 7/13/2016  

The back-and-forth war between YouTube and the music industry continues, this time with a new privacy report from Google. In the company's "How Google Fights Privacy" report released today, the company details data that shows YouTube has paid $2 billion to copyright holders through its Content ID system.

HOLLYWOOD ACCUSED OF CONSPIRACY TO RID MARKET OF SERVICES FILTERING PROFANITY, SEX AND VIOLENCE  
URL: http://www.hollywoodreporter.com/thr-esq/hollywood-accused-conspiracy-910526

VidAngel responds to a copyright lawsuit with antitrust allegations.

TMZ CONTENDS JARED LETO DOESN'T OWN VIDEO WHERE HE CURSES TAYLOR SWIFT  
URL: http://www.hollywoodreporter.com/thr-esq/tmz-contends-jared-leto-doesnt-910544

The celebrity news site asserts that the author of the work is the one who held the camera (and then leaked it).

OBAMA'S LEGACY: THE TRASHING OF FREE SPEECH  
via Media and Communications Policy by Patrick Maines on 7/13/2016  
URL: http://www.mediacompolicy.org/2016/07/articles/uncategorized/obamas-legacy-the-trashing-of-free-speech/

No administration in memory has more thoroughly undermined freedom of speech and of the press than that of President Obama.
GOOGLE UPDATES ITS SELF-SERVING, DISINGENUOUS ANTI-PIRACY REPORT
via Vox Indie by Ellen Seidler on 7/13/2016
URL: http://voxindie.org/google-self-serving-piracy-report/

Google's updated piracy report offers the same, tired excuses and obfuscation. It's that time of year. The time of year where Google rolls out a shiny update on its "How Google Fights Piracy" report. Google began the tradition in 2013. At the time I noted that Google's claim to be a "leader" in the fight [...]  

GOOGLE DROPS CASE OVER MISS. AG'S PIRACY PROBE
via Intellectual Property Law360 by Bill Donahue on 7/13/2016
URL: http://www.law360.com/ip/articles/817023

Google Inc. on Wednesday quietly dropped its lawsuit against Mississippi's attorney general over his investigation into the company's approach to illegal content, saying the two sides would "collaborate" on addressing piracy.

TED CRUZ'S PRESIDENTIAL CAMPAIGN APPARENTLY COMMITTED COPYRIGHT INFRINGEMENT. OOPS.
via Technology & Marketing Law Blog by Eric Goldman on 7/13/2016

I know it may be my own idiosyncratic and romanticized view of governance, but I hold politicians to a higher standard when it comes to knowing, and complying with, the law.

GLOBAL INNOVATION, COPYRIGHT - SEATTLE, WA
via Legal Scholarship Blog by Mary Whisner on 7/13/2016
URL: http://www.legalscholarshipblog.com/2016/07/13/global-innovation-copyright-seattle-wa/

The University of Washington School of Law's Center for Advanced Study & Research on Innovation Policy (CASRIP) presents the 2016 Global Innovation Law Summit July 22, 2016.

YOUTUBE SAYS IT'S PAID $2 BILLION TO RIGHTS HOLDERS UNDER DMCA CONTENT ID SYSTEM
via The Daily Dot by Rae Volta on 7/13/2016
URL: http://www.dailydot.com/upstream/youtube-copyright-payouts/

In Google's newly released "How Google Fights Piracy" report, the company says it has paid out $2 billion to copyright holders since the launch of...
HAPPY BIRTHDAY' COUNSEL DEFEND $4.6M ATTY FEES BID
URL: http://www.law360.com/ip/articles/817003

A $14 million settlement of a copyright class action placing "Happy Birthday To You" in the public domain may have been approved last month by a California federal judge, but the attorney fees' fight continues, with class counsel on Tuesday decrying the defense's opposition as "a losing party's lament."

SENATE CONFIRMS NEW LIBRARIAN OF CONGRESS
URL: http://www.law360.com/ip/articles/817216

The Senate moved past the stalled nomination and voted on Wednesday to confirm the first African-American and female to be Librarian of Congress, a position that has broad sway over copyright policy, including exceptions under the Digital Millennium Copyright Act.

TWO MORE SONGS COULD FOLLOW 'HAPPY BIRTHDAY' INTO THE PUBLIC DOMAIN
via Fortune by Michal Addady on 7/13/2016
URL: http://fortune.com/2016/07/13/songs-public-domain/

Mark Rifkin is representing the plaintiffs in both cases, arguing that the copyright protections for "We Shall Overcome" and "This Land Is Your Land" are ...

WIPO NAMES VIVENDI EXECUTIVE SYLVIE FORBIN OF FRANCE NEW DDG FOR COPYRIGHT
via Intellectual Property Watch by William New on 7/13/2016

The World Intellectual Property Organization director general has named Sylvie Forbin of France, a veteran diplomat and copyright industry representative, as the next head of the WIPO Copyright and Creative Industries Sector. Forbin was chosen from more than 300 applicants, according to WIPO.
REGISTRAR WARNS OVER 'DUNUNA REVERSE' COPYRIGHT
via Zambia Daily Mail on 7/13/2016
URL: https://www.daily-mail.co.zm/?p=72766

THE Registrar of Copyrights in Zambia has warned that it is an offence for anyone to reproduce, distribute and communicate to the public or do any act ...

VIDANGEL COUNTERSUES HOLLYWOOD STUDIOS WITH ANTITRUST LAWSUIT
via Variety by Ted Johnson on 7/13/2016

They also claim that the studios have sought to "expand their copyright monopoly" by depriving consumers of the right to buy and sell copyrighted ...

SENATE APPROVES CARLA HAYDEN AS NEW LIBRARIAN OF CONGRESS
via NPR by Camila Domonoske on 7/14/2016

With the overwhelming support of the Senate, Dr. Carla Hayden has been approved as the next librarian of Congress. Hayden, the head of Baltimore's ...

CARLA HAYDEN CONFIRMED AS 14TH LIBRARIAN OF CONGRESS
via Washington Post by Peggy McGlone on 7/14/2016

It is the research arm of Congress, provides legal advice to its members, public programs and assistance to scholars, and operates the Copyright ...

GOOGLE ENDS SPAT WITH MISSISSIPPI AG OVER HIS MPAA-TINGED INVESTIGATION
via Ars Technica by Joe Mullin on 7/14/2016

Google has ended its legal conflict with a Mississippi state official who opened a wide-ranging investigation into the search giant's business practices.
NEW LIBRARIAN OF CONGRESS FACES COPYRIGHT MODERNIZATION
via Bloomberg BNA by Anandashankar Mazumdar on 7/14/2016
URL: http://www.bna.com/new-librarian-congress-n73014444728/

Carla D. Hayden, the long-time head of the Baltimore public library system, was confirmed as librarian of Congress by a Senate vote of ...

GOOGLE: DEMOTING ONLINE PIRACY SITES IN SEARCH RESULTS HAS LED TO A 89% DECREASE IN TRAFFIC
via International Business Times by Mary-Ann Russon on 7/14/2016
URL: http://www.ibtimes.co.uk/google-downranking-online-piracy-sites-search-results-has-led-89-decrease-traffic-1570688

The report, entitled "How Google Fights Piracy" is targeted at copyright holders like the Hollywood entertainment industry, which have repeatedly ...

COMPANY SAYS COPYRIGHT INFRINGEMENT CONFUSES CUSTOMERS
via Penn Record by Louie Torres on 7/14/2016
URL: http://pennrecord.com/stories/510941402-company-says-copyright-infringement-confuses-customers

Company says copyright infringement confuses customers ... Electric Supply, Lidong Ni, and Xiaodan Zheng, citing alleged copyright infringement.

VENABLE FACES DQ, SANCTIONS IN SOFTWARE COPYRIGHT ROW
via Intellectual Property Law360 by Matthew Guarnaccia on 7/14/2016
URL: http://www.law360.com/ip/articles/817685

Live Face on Web LLC urged a Pennsylvania federal judge Thursday to sanction and disqualify Venable LLP from representing the digital marketing company it is suing over a video software licensing agreement, saying the firm previously promised not to represent any party in the case.

ANOTHER 'AVATAR' RIP-OFF SUIT FALLS FLAT IN CALIF. APPEAL
via Intellectual Property Law360 by Daniel Siegal on 7/14/2016
URL: http://www.law360.com/ip/articles/817796

A California appeals court on Thursday shut down the latest in a string of suits accusing James Cameron of stealing the idea for his blockbuster "Avatar," affirming dismissal of an author's suit alleging Cameron and Mitchell Silberberg & Knupp LLP lied to avoid her copyright claim.
COPYRIGHT INFRINGEMENT CLAIM IS DISMISSED AFTER THE COURT FINDS THE APPLICANT IS NOT THE AUTHOR AND ...
via Lexology by Chantal Saunders et al. on 7/14/2016
URL: http://www.lexology.com/library/detail.aspx?g=dff3cda2-cc87-47ba-b756-f17d173c6728

This is an application for declarations and remedies related to alleged copyright infringement and infringement of moral rights. The applicant claims ...

GOOGLE BRANDED 'PIRACY ENABLER' FOLLOWING COPYRIGHT CLAIM
via World IP Review by Evan Lorne on 7/15/2016

The British Phonographic Industry (BPI) has criticised a report by Google outlining how it fights copyright infringement, branding the company a "piracy ...

NEW ACT PROMISES COPYRIGHT SMALL CLAIMS COURT
via IP Pro The Internet by Barney Dixon on 7/15/2016
URL: http://ipprotheinternet.com/ipprotheinternetnews/copyrightarticle.php?article_id=5003

An Authors Guild-backed federal bill that would create a court for small copyright claims has been introduced into the House of Representatives.

SSRN POSTINGS AND COPYRIGHT
via PrawfsBlawg by Howard Wasserman on 7/15/2016

The following was sent by Stephen Henderson (Oklahoma) to the Law Prof Listserv; it is reposted here with his permission. It is one experience and could be unique, but it presents something to watch for. It appears that the corporate takeover of SSRN is already having a real impact. When I posted a final PDF of an article for which not only do my co-author and I retain the copyright, but for which the contract also includes _explicit_ permission to post on SSRN, I received the typical happy "SSRN Revision Email" saying all was well. Only when I went to...

KURT SUTTER SLAMS GOOGLE, ARGUES FOR DMCA UPDATE
via Rolling Stone by Kurt Sutter on 7/15/2016
URL: http://www.rollingstone.com/music/news/kurt-sutter-slams-google-argues-for-dmca-update-w429367

Marv: No technology can find all infringement considering the wide variety of copyrighted works, the diversity of internet platforms, and the vast amount ...
FUGEES CO-FOUNDER SUES SHOWTIME FOR COPYRIGHT INFRINGEMENT
via Hollywood Reporter - THR, Esq. by Ashley Cullins on 7/15/2016

Pras Michel says the network has been illegally exploiting his documentary.

APPLE PROPOSES SIMPLIFIED STATUTORY LICENSING SCHEME TO DC
via Billboard by Robert Levine on 7/15/2016

(Labels and other owners of recording copyrights negotiate their own terms.) The money is divided into public performance and mechanical royalties, ...

FUGEES MEMBER SAYS SHOWTIME STOLE HIS DOCUMENTARY
via Intellectual Property Law360 by Kat Greene on 7/15/2016
URL: http://www.law360.com/ip/articles/818219

Showtime is airing a documentary produced by Pras Michel, a founding member of The Fugees, without paying him for it, according to a copyright suit filed in California on Friday alleging the network got a signature from someone who wasn't authorized to license the film.

SPORTS PHOTOGS' SUIT AGAINST NFL, AP SURVIVES IN PART
URL: http://www.law360.com/ip/articles/818317

A New York federal judge Friday allowed part of a lawsuit filed by professional sports photographers against the NFL, Associated Press and others to proceed, saying the lensmen sufficiently alleged that the exclusive licensing agreements they signed with the AP are void for unconscionability.

APPLE, IN SEEMING JAB AT SPOTIFY, PROPOSES SIMPLER SONGWRITING ROYALTIES
via N.Y. Times by Ben Sisario on 7/15/2016

According to Apple's proposal, made with the Copyright Royalty Board, a panel of federal judges who oversee rates in the United States, streaming ...
MUSICIAN ALLOWED TO SUE COLLEAGUES OVER COPYRIGHT, FOLLOWING 12 YEARS IN COURTS
via The Star by Carole Maina on 7/15/2016
URL: http://www.the-star.co.ke/news/2016/07/16/musician-allowed-to-sue-colleagues-over-copyright-following-12-years_c1386836

The High Court has given a musician the go-ahead to privately prosecute his colleagues over copyright infringement. Albert Gacheru of the famous ...

STEP ASIDE RIAA, THE NEW CREATORS CARE ABOUT COPYRIGHT NOW.
via Adland by Kidsleepy on 7/15/2016

A TL;DR for people who don't read articles all the way through because words: The whack-a-mole DMCA system is as bad for Youtube content ...

APPLE'S NEW PROPOSAL FOR STREAMING MUSIC ROYALTIES COULD LEAVE SPOTIFY OUT OF POCKET
via Techradar by David Nield on 7/16/2016

Copyright regulators in the US are currently working out ways of improving the incredibly complex system for calculating how much artists get paid ...

FUGEES CO-FOUNDER SUES SHOWTIME FOR COPYRIGHT INFRINGEMENT
via World IP Review on 7/18/2016

Pras Michel, co-founder of US band the Fugees, has filed a copyright infringement complaint against US television networks Showtime and Showtime ...
FROM THE PIRATE BOOKSELLERS OF CHUNGKING STREET TO TAIWAN TODAY (TAIWAN BLOG #1)
via Hugh Stephens Blog on 7/18/2016
URL: http://hughstephensblog.net/2016/07/18/from-the-pirate-booksellers-of-chungking-street-to-taiwan-today-taiwan-blog-1

Taiwan, 23 million people, lives in the shadow of its huge cousin on the mainland, China (the Peoples' Republic), population 1.3 billion...more or less.

STAR ATHLETICA WARNS HIGH COURT ON APPAREL COPYRIGHTS
via Intellectual Property Law360 by Bill Donahue on 7/18/2016
URL: http://www.law360.com/ip/articles/802708

Cheerleading uniform company Star Athletica LLC fired its opening salvo Friday in a closely watched copyright case at the U.S. Supreme Court, warning the justices that a ruling expanding copyright protection for garments would be "deleterious to the public."

ORACLE WINS ROUND IN COPYRIGHT SUIT WITH HPE
via The Recorder by Ross Todd on 7/18/2016

The complaint, Evanson said, never alleged that HPE ever installed copyrighted software on a server that didn't have a valid Oracle support contract.

USTR UNVEILS DIGITAL TRADE POLICY GROUP
via Intellectual Property Law360 by Rick Archer on 7/18/2016
URL: http://www.law360.com/ip/articles/818710

The Office of the U.S. Trade Representative on Monday announced the formation of a committee to promote global digital trade, which will develop policy responses to existing and emerging barriers to digital trade around the world.

REPS ASK COPYRIGHT OFFICE TO ANALYZE FCC'S SET-TOP PLAN
via Intellectual Property Law360 by Jenna Ebersole on 7/18/2016
URL: http://www.law360.com/ip/articles/818513

A bipartisan group of four lawmakers wrote to the U.S. Copyright Office on Friday to ask that it consider the Federal Communications Commission's plan to unlock the TV set-top box, seeking a close look at the copyright implications of the proposal.
PUBLISHER SEeks TO OVERCOME COPYRIGHT SUIT OVER FAMOUS CIVIL RIGHTS SONG
via Hollywood Reporter - THR, Esq. by Ashley Cullins on 7/18/2016
URL: http://www.hollywoodreporter.com/thr-esq/publisher-seeks-overcome-copyright-suit-912113

The lawsuit seeks to put "We Shall Overcome" in the public domain and make defendants return fees collected for licensing the song.

WILL.I.AM, TIMBERLAKE SAY 3-YEAR LIMIT CUTS DISCO IP DAMAGES
via Intellectual Property Law360 by Kat Greene on 7/18/2016
URL: http://www.law360.com/ip/articles/818756

Will.i.am and Justin Timberlake took a swing at a suit alleging the pair owe the heir to dead disco star Perry Kibble millions of dollars for allegedly sampling a Kibble song for their 2006 hit "Damn Girl," telling a New York court Monday the heir can't ask for damages going back before 2013.

CISAC: 90 YEARS IN THE SERVICE OF AUTHORS AND COMPOSERS
via Intellectual Property Watch by Alexandra Nightingale on 7/18/2016
URL: http://www.ip-watch.org/2016/07/19/cisac-90-years-in-the-service-of-authors-and-composers/

The International Confederation of Societies of Authors and Composers (CISAC), the world's leading network of authors' societies, has published a book looking back at its 90 years in existence. The CISAC Story - 90 Years in the Service of Authors and Creators Worldwide, was distributed in three languages at the Confederation's General Assembly last month in Paris.

IP SKEPTIC DOCTORow NOTICES A PROBLEM
via The Illusion of More by David Newhoff on 7/19/2016
URL: http://illusionofmore.com/ip-skeptic-doctorow-notices-problem/

Last week, Cory Doctorow reported on Boing Boing that Amazon has a growing counterfeit products problem on its hands due to a change in company policy that allows Chinese suppliers to sell direct on the platform, bypassing domestic importers.
WILL.I.AM, JUSTIN TIMBERLAKE MOVE TO DISMISS "DAMN GIRL" COPYRIGHT SUIT
via Hollywood Reporter - THR, Esq. by Ashley Cullins on 7/19/2016

The hit song was released in 2006, but the suit wasn't filed until a decade later.

SSRN AND COPYRIGHT
via Balkinization by Jason Mazzone on 7/19/2016
URL: http://balkin.blogspot.com/2016/07/ssrn-and-copyright.html

This week SSRN removed from public view two of my papers with the following note in the comments attached to the files:

FILE-SHARING LAWSUIT NUMBERS DROP BY MORE THAN HALF
via Ars Technica by Joe Mullin on 7/19/2016
URL: http://arstechnica.com/tech-policy/2016/07/file-sharing-lawsuits-drop-by-more-than-half/

The number of copyright lawsuits over online file-sharing have dropped significantly this year, according to data compiled by Lex Machina.

VIMEO RULING UPSET 'CENTURIES' OF COPYRIGHT LAW, RIAA SAYS
via Intellectual Property Law360 by Bill Donahue on 7/19/2016
URL: http://www.law360.com/ip/articles/818909

Capitol Records and the Recording Industry Association of America are urging the en banc Second Circuit to toss out last month's panel ruling that the Digital Millennium Copyright Act's safe harbors protect online hosts like Vimeo from liability even for pre-1972 recordings that aren't covered by federal copyrights.

STAIRWAY' FEE BID BASED ON 'PERSONAL ATTACKS,' ESTATE SAYS
via Intellectual Property Law360 by Bill Donahue on 7/19/2016
URL: http://www.law360.com/ip/articles/819054

The estate that unsuccessfully accused Led Zeppelin of stealing the intro to "Stairway to Heaven" is now fighting to avoid a nearly $800,000 fine for doing so, saying Monday the demand is based on "irrelevant personal attacks" on the plaintiff's embattled attorney.
FILMON URGES DC CIRC. TO PAUSE STREAMING TV FIGHT
via Intellectual Property Law360 by Bill Donahue on 7/19/2016
URL: http://www.law360.com/ip/articles/819207

Streaming service FilmOn X filed the opening brief Monday in its D.C. Circuit battle with television broadcasters, pressing the court to hit pause in favor of a near-identical case at the Ninth Circuit.

WE SHALL OVERCOME' NOT PUBLIC DOMAIN, PUBLISHER SAYS
via Intellectual Property Law360 by Bill Donahue on 7/19/2016
URL: http://www.law360.com/ip/articles/819015

The publishers that own the rights to 1960s protest song "We Shall Overcome" have asked a New York federal court to toss out a proposed class action aimed at proving the civil rights movement anthem is actually in the public domain.

GOOGLE DOES PLENTY TO FIGHT PIRACY, BUT CHALLENGES REMAIN
via Forbes by Nelson Granados on 7/19/2016

Google selects Content ID users based on applicants' scale and need to use copyrighted material, ensuring they are well trained so that there is no ...

QUEEN NOT HAPPY DONALD TRUMP USED ITS MUSIC AGAIN
via Hollywood Reporter by Ryan Parker & Eriq Gardner on 7/19/2016

Despite the complaints, a blanket license from ASCAP usually allows the performance of copyrighted music without any special permission ...

PROF URGES 9TH CIRC. TO NIX ORE. IMMUNITY IN ORACLE IP SUIT
via Intellectual Property Law360 by Suevon Lee on 7/19/2016
URL: http://www.law360.com/ip/articles/819320

Law professor and constitutional law expert Erwin Chemerinsky filed an amicus brief Tuesday in a Ninth Circuit appeal involving Oracle's copyright infringement suit against Oregon over the state's heath insurance exchange, urging the court to recognize federal authority over copyright law.
WHEN WILL THE COPYRIGHT ACT FAVOUR THE ARTIST?
via The Wire by Ananth Padmanbhan on 7/20/2016
URL: http://thewire.in/52771/when-will-the-copyright-act-favor-the-artist/

The Indian Copyright Act's centralised scheme for collective licensing is in shambles and lawmakers would do well to remember this when proposing ...

GOOGLE, MICROSOFT CAN'T BE FORCED TO CENSOR "TORRENT" SEARCHES
via Ars Technica by Glyn Moody on 7/20/2016

The high court of Paris has ruled that Google and Microsoft do not have to censor their search engines to remove all results involving the world "torrent" used in conjunction with the names of three French musicians.

FEDS LOOK TO SEIZE 'WOLF OF WALL STREET' RIGHTS AS PART OF MALAYSIAN CORRUPTION ACTION

A complaint filed by the government discusses money to Martin Scorsese's company and who Leonardo DiCaprio thanked during the Golden Globes.

COPYRIGHT TIPS FOR POLITICAL CAMPAIGNS AND THEIR CONSULTANTS
via Lexology by Joshua J. Kaufman et al. on 7/20/2016
URL: http://www.lexology.com/library/detail.aspx?g=c5b72c58-7cab-40d2-b925-e3a14e7f30e2

What do the campaigns of Sarah Palin, John McCain, Ted Cruz, Donald Trump, Newt Gingrich, Rand Paul, Ralph Nader, Ronald Reagan, Mike ...

WAS MELANIA TRUMP'S PLAGIARISM ALSO COPYRIGHT INFRINGEMENT? (GUEST BLOG POST)
via Technology & Marketing Law Blog by Eric Goldman on 7/20/2016
URL: http://blog.ericgoldman.org/archives/2016/07/was-melania-trumps-plagiarism-also-copyright-infringement-guest-blog-post.htm

The first night of the Republican National Convention generated quite a bit of controversy, as Melania Trump was accused of plagiarizing a key passage in her speech from a similar passage in Michelle Obama's speech at the 2008 Democratic Convention.
SIDELOADING SERVICE DEFEATS COPYRIGHT INFRINGEMENT CLAIMS-BWP V. POLYVORE
via Technology & Marketing Law Blog by Eric Goldman on 7/20/2016
URL: http://blog.ericgoldman.org/archives/2016/07/sideloading-service-defeats-copyright-infringement-claims-bwp-v-polyvore.htm

BWP Media is a celebrity photo agency and a repeat online copyright plaintiff.

DID MELANIA TRUMP INFRINGE 2008 OBAMA SPEECH?
via Bloomberg BNA by Anandashankar Mazumdar on 7/20/2016
URL: http://www.bna.com/melania-trump-infringe-n73014445037/

The difference between plagiarism and copyright infringement is important when considering whether Trump's speech could give rise to a successful ...

ALLEGED FOUNDER OF WORLD'S LARGEST BITTORRENT DISTRIBUTION SITE ARRESTED
via Ars Technica by Cyrus Farivar on 7/20/2016

Federal authorities announced Wednesday the arrest of the alleged mastermind of KickassTorrents, the world's largest BitTorrent distribution site. As of this writing, the site is still up.

U.S. LOOKS TO PROSECUTE OWNER OF KICKASS TORRENTS AFTER ARREST IN POLAND

Artem Vaulin is charged with conspiracy to commit criminal copyright infringement.

UKRAINIAN MAN CHARGED OVER FILE-SHARING WEBSITE
via WSJ.com: Technology by Aruna Viswanatha on 7/20/2016

The purported owner of one of the most-visited file-sharing websites was arrested in Poland Wednesday on U.S. charges of unlawfully distributing more than $1 billion in movies, videogames and other media, according to U.S. authorities.
HOLLYWOOD DOCKET: LED ZEPPELIN'S LEGAL FEES; WHITNEY HOUSTON'S EMMY
via Hollywood Reporter - THR, Esq. by Ashley Cullins on 7/20/2016

A roundup of entertainment law news, including the highest paid corporate lawyers in the biz.

ZARA'S OWNER RESPONDS TO ARTIST'S COPY CLAIMS
via Vogue by Scarlett Conlon on 7/21/2016
URL: http://www.vogue.co.uk/news/2016/07/21/zara-responds-copyright-claims-tuesday-bassen

ZARA's owner Inditex has responded to claims that the popular Spanish high-street store plagiarised Californian artist Tuesday Bassen's work over ...

CRUZ FOR PRESIDENT CANNOT AVOID COPYRIGHT INFRINGEMENT AND BREACH OF CONTRACT CLAIMS
via Lexology on 7/21/2016
URL: http://www.lexology.com/library/detail.aspx?g=086efe0b-37b9-49f1-bd18-345a0fcd41fb

In May of 2016, "Cruz for President" and its ad agency (together "Cruz") were sued by a music downloading website and two artists (collectively ... 

DCA'S NEW REPORT ON ENABLING MALWARE
via The Illusion of More by David Newhoff on 7/21/2016
URL: http://illusionofmore.com/dcas-new-report-enabling-malware/

Andrew Orlowski reports at The Register that last week Google quietly suspended its legal action to "muzzle" an investigation by Mississippi Attorney General Hood into whether or not the search giant was abiding by the terms of its 2012, non-prosecutorial ...

ORACLE RENEWS MOTION FOR JUDGMENT AS A MATTER OF LAW AGAINST GOOGLE
via JOLT Digest by Emily Chan on 7/21/2016
URL: http://jolt.law.harvard.edu/digest/software/oracle-renews-motion-for-judgment-as-a-matter-of-law-against-google

Following an unfavorable verdict from a second jury and the Court's denial of the first motion for judgment as a matter of law ("JMOL"), Oracle America, Inc. ("Oracle") filed a renewed motion for JMOL pursuant to FRCP Rule 50(b). Oracle's second motion, filed July 6, 2016, claimed that "no reasonable jury" could find that Google's "verbatim [and] entirely commercial" copying of Oracle's code, in order to compete with Oracle, was fair use.
NEW REPORT ON HOW (SOME) COMPANIES ENABLE MALWARE'S SPREAD
via Vox Indie by Ellen Seidler on 7/21/2016
URL: http://voxindie.org/new-report-us-firms-enable-malware-on-web/

U.S. firms enable scammers to bait consumers and steal personal info Spam and scams have become a way of life. Every day my in-box is full of emails warning that my Apple, PayPal or Wells Fargo credentials have been compromised and instructing me to click a link to restore my good standing. Of course, I'm [...]

COPYRIGHT LAWSUITS OVER ONLINE FILE-SHARING DROP IN 2016 Q2, STUDY SAYS
via Law.com - Newswire by Ed Silverstein on 7/21/2016
URL: http://www.law.com/sites/articles/2016/07/21/copyright-lawsuits-over-online-file-sharing-drop-in-2016-q2-study-says/

Different trends in each form of IP are much more mercurial and subject to short term disturbances, Brian Howard, a legal data scientist at Lex Machina, said.

ZARA RESPONDS TO COPYRIGHT CLAIMS FROM ILLUSTRATOR TUESDAY BASSEN, STOPS SELLING RELEVANT ITEMS
via Fashion Times by Kelsey Drain on 7/21/2016

Zara has recently come under fire for reportedly plagiarizing some work of California-based illustration artist Tuesday Bassen on several items of ...

DOJ ARRESTS KICKASS TORRENTS' OWNER ON COPYRIGHT CHARGES
URL: http://www.law360.com/ip/articles/819985

The owner of Kickass Torrents, one of the most visited websites in the world, was arrested on Wednesday in Poland on copyright infringement charges brought in Illinois federal court, the U.S. Department of Justice said.
EFF SUES FEDS OVER DCMA COPYRIGHT CIRCUMVENTION BAN
via Intellectual Property Law360 by Melissa Daniels on 7/21/2016
URL: http://www.law360.com/ip/articles/819974

The Electronic Frontier Foundation sued the government in D.C. federal court over the "anti-circumvention" provision in the Digital Millennium Copyright Act on Thursday, saying it overly restricts public access and use of copyrighted materials for innovation and research in violation of the First Amendment.

GOOGLE BLASTS ORACLE TRIAL BID, RENEWS ORRICK SANCTIONS CALL
via Intellectual Property Law360 by Kat Greene on 7/21/2016
URL: http://www.law360.com/ip/articles/819983

Google Inc. on Wednesday defended a high-profile jury verdict that its use of Oracle's copyrighted Java software code was protected by fair use, telling a California federal court Oracle shouldn't get a new trial and reviving a sanctions bid against Orrick Herrington & Sutcliffe LLP partner Annette Hurst.

EFF BRINGS FIRST AMENDMENT CHALLENGE TO DMCA
via Law.com - Newswire by Ben Hancock on 7/21/2016

The law's criminal penalties for breaking "digital locks" that guard music and software code stifle legitimate research and business, the nonprofit contends.

FIRST LOOK, FACEBOOK'S NEW RIGHTS MANAGER TOOLS
via Vox Indie by Ellen Seidler on 7/21/2016

Facebook has been promising for some time to introduce tools that would allow rights holders to automatically detect and remove pirated content from its pages.

EFF SUES US GOVERNMENT, SAYING COPYRIGHT RULES ON DRM ARE UNCONSTITUTIONAL
via Ars Technica by Joe Mullin on 7/22/2016

Since the Digital Millennium Copyright Act (DMCA) became law in 1998, it has been a federal crime to copy a DVD or do anything else that subverts digital copy-protection schemes.
SOFTWARE DEVELOPER HIT WITH SANCTIONS BID IN COPYRIGHT ROW
via Intellectual Property Law360 by Kelly Knaub on 7/22/2016
URL: http://www.law360.com/ip/articles/820068

A software program owner being sued for $10 million by a South Korean native who claims he developed the program and was falsely promised the copyright has urged a California federal court to sanction the man, saying he's frivolously trying to relitigate issues that were settled more than five years ago.

GEEKS SUE US GOVERNMENT OVER COPYRIGHT LAW, HERE'S A GUIDE
via Fortune by Jeff John Roberts on 7/22/2016
URL: http://fortune.com/2016/07/22/dmca-lawsuit/

Two men—a professor and an inventor—filed a remarkable lawsuit against the Justice Department this week, claiming a controversial copyright law ...

U.S. CHAMBER APPLAUDS ACTIONS AGAINST MAJOR ILLEGAL FILE SHARING SITE
via Global Intellectual Property Center by Courtney Paul on 7/22/2016
URL: http://www.theglobalipcenter.com/u-s-chamber-applauds-actions-against-major-illegal-file-sharing-site/

U.S. Chamber of Commerce Global Intellectual Property Center (GIPC) Executive Vice President Mark Elliot issued the following statement applauding this week's U.S. Department of Justice actions involving the arrest of the owner of one of the world's largest illegal file sharing site, KickAssTorrents (KAT):

CABLE LOBBY SET-TOP OFFER: NO DVR REQUIREMENT, NO MORE COMPROMISES
via Ars Technica by Jon Brodkin on 7/22/2016

The cable industry's primary lobby group has provided more details on its counter-proposal to the Federal Communications Commission's set-top box plan, and there's at least one thing cable TV customers won't like.
KATY PERRY'S COSMETICS COMPANY SUED BY HARD CANDY FOR COPYRIGHT INFRINGEMENT
via Music Times by Cailey Lindberg on 7/22/2016

Katy Perry attends the COVERGIRL Katy Kat Matte launch at The Waterfall Mansion on May 1, 2016 in New York City.

IP GROUP, ABA CLASH ON LACHES PATENT DEFENSE
via Intellectual Property Law360 by Melissa Daniels on 7/22/2016
URL: http://www.law360.com/ip/articles/820427

The American Bar Association gave a thumbs-up and the Intellectual Property Owners Association a thumbs-down on whether laches can and should continue as an allowed defense in patent cases as both weighed in on a U.S. Supreme Court case between two hygiene companies Friday.

UBER IP: A PRIMER ON THE PATENTS, TRADEMARKS AND COPYRIGHTS OWNED BY UBER

Uber has also obtained design patent protection for its user interfaces. The user interfaces would not be eligible for protection under trademark law, therefore, design patent protection is the strongest form of protection available. This protection prevents competitors or other companies from mimicking the Uber app interfaces, thus eliminating customer confusion. As the term of any design patent only lasts for 15 years, Uber will not be able to maintain the protection of the interfaces...

BATTEN DOWN THE HATCHES-NAVY ACCUSED OF PIRATING 585K COPIES OF VR SOFTWARE
via Ars Technica by David Kravets on 7/23/2016

A German maker of 3D virtual reality software is accusing the US Navy of engaging in wanton piracy, and we're not talking about piracy on the high seas.
SILENCED PRIEST BEQUEATHS COPYRIGHT
via The Times by Justine McCarthy on 7/23/2016
URL: http://www.thetimes.co.uk/article/silenced-priest-bequeaths-copyright-qlgn5q3d3

A Marist theologian, who had been silenced by the Vatican, transferred the copyright for his books to a female colleague before his death. Seán Fagan ...

THE DANGEROUS COMBINATION OF CONTENT THEFT AND MALWARE
via Mister Copyright by Kevin Madigan on 7/24/2016

Malware, short for malicious software, has been used to infiltrate and contaminate computers since the early 1980s.

ON CRIBBING, COPYRIGHT AND MRS. TRUMP'S RNC SPEECH
via Law.com - Newswire by J. Michael Keyes on 7/24/2016

OPINION: With platitudes about hard work and respect, Melania's address echoed one we'd heard in 2008.

AFTER AEREO: APPLYING THE CABLE COMPULSORY LICENSE TO INTERNET RETRANSMISSION SERVICES
via Columbia Business Law Review by Jake Makar on 7/24/2016
URL: http://cblr.columbia.edu/archives/13917

Jake Makar, After Aereo: Applying the Cable Compulsory License to Internet Retransmission Services, 2016 Colum. Bus. L. Rev. 475 (2016). As Internet technology has advanced, consumers have increasingly opted to view video content on their computer, tablet, and smartphone screens instead of their television screens. In American Broadcasting Cos. v. Aereo, Inc. ("Aereo III"), decided in 2014, the U.S. Supreme Court rejected one of the more creative methods of delivering content via the Internet, closing a legal loophole by ruling that a company [...] (More ?)
STEVIE WONDER CONGRATULATES UN DELEGATES ON ENTRY INTO FORCE OF MARRAKESH TREATY
via YouTube by wipo on 7/24/2016
URL: https://www.youtube.com/watch?v=mSKN2nsgylw

UN Messenger for Peace Stevie Wonder called for greater participation in the Marrakesh Treaty, which recently garnered the 20 accessions or ratifications needed for entry into force on September 30, 2016. Speaking to UN delegates in New York on Nelson Mandela International Day, July 18, 2016, the longtime Marrakesh Treaty supporter urged greater efforts from delegates to join the "Books for Blind" treaty that aims to boost accessibility to printed matter for the hundreds of millions of people living with visual impairments around the globe.

"DON'T USE OUR SONGS"
via The Illusion of More by David Newhoff on 7/25/2016
URL: http://illusionofmore.com/dont-use-songs/

There was no way I could not share this. I recommend watching all the way through to the end. Is the message entirely on solid ground copyright-wise? Not quite. Is the sentiment in the right place? I think so. And ...

ZEPPELIN WIN IN 'STAIRWAY' RIP OFF TRIAL APPEALED TO 9TH CIRC.
via Intellectual Property Law360 by Steven Trader on 7/25/2016
URL: http://www.law360.com/ip/articles/821087

The estate that unsuccessfully accused Led Zeppelin of stealing the famed opening riff of their 1971 megahit "Stairway to Heaven" has announced its intention to appeal to the Ninth Circuit the California federal jury's decision in the high-profile trial that concluded late last month.

BEYONCE ASKS COURT TO TOSS 'LEMONADE' LAWSUIT
via Hollywood Reporter - THR, Esq. by Ashley Cullins on 7/25/2016

The star's lawyer argues her visual album and the short film it's accused of mimicking are "a textbook example" of what does not constitute copyright infringement.
WHY DONALD TRUMP SHOULD HAVE GOTTEN SONG PERMISSION FROM THE ROLLING STONES (BUT NOT QUEEN)
URL: http://www.hollywoodreporter.com/thr-esq/why-donald-trump-should-have-914367

An ASCAP license covered much of what was played at the Republican National Convention. But maybe not everything.

HBO SACKS ALLEGATIONS IT STOLE IDEA FOR 'BALLERS'
URL: http://www.law360.com/ip/articles/821273

A California federal judge blocked a suit claiming HBO, Dwayne "The Rock" Johnson and Mark Wahlberg stole the idea for a show on the rakish lives of football players from two screenwriters' 2007 pitch, ruling Monday that despite similarities the "themes and concerns are widely different."

SEARCH ENGINE ISOHUNT HEAD SETTLES $66 MILLION LAWSUIT WITH MUSIC CANADA
via Financial Post by Claire Brownell on 7/25/2016

Fung said he's glad Canada prevented copyright holders from getting personal information about suspected pirates without a court order, but he thinks ...

ON CRIBBING, COPYRIGHT AND MRS. TRUMP'S RNC SPEECH
via Law.com - Newswire by J. Michael Keyes on 7/25/2016

OPINION: With platitudes about hard work and respect, Melania's address echoed one we'd heard in 2008.

GETTY HIT WITH $1B COPYRIGHT SUIT OVER PHOTOG'S DONATIONS
URL: http://www.law360.com/ip/articles/821177

A photographer filed on Monday a $1 billion copyright infringement suit in New York against Getty Images' American arm, alleging that the company is sending out letters demanding licensing fees for her photos that were donated to the Library of Congress.
HP CAN'T NIX ORACLE'S SOFTWARE COPYRIGHT SUIT
URL: http://www.law360.com/ip/articles/820863

A California federal judge has denied Hewlett Packard Enterprise's request to throw out a lawsuit alleging it distributed copyrighted Oracle software code through its tech support companies, saying in an order unsealed Friday that he would allow the direct copyright and contract interference claims.

A EUROPEAN PROPOSAL FOR THE MODERNISATION AND HARMONISATION OF COPYRIGHT LAW
via Lexology by Lorenzo Attolico on 7/25/2016
URL: http://www.lexology.com/library/detail.aspx?g=2d5f607d-a51a-4fa3-8f80-56d98fe7f53d

On 9 December, 2015, the EU Commission revealed its expected plans for the modernisation of copyright law. According to the Commission, the goal ...

LED ZEPPELIN 'STAIRWAY TO HEAVEN' COPYRIGHT TRIAL: APPEAL LAUNCHED AFTER ROCKERS CLEARED OF PLAGIARISM
via Independent by Jess Denham on 7/25/2016

Last month, a jury found that bandmates Jimmy Page and Robert Plant did not plagiarise their iconic rock song from Spirit's 1969 instrumental track ...

APPEAL FILED IN LED ZEPPELIN COPYRIGHT CASE
via World IP Review by grynold on 7/26/2016

In June, British rock group Led Zeppelin successfully won a copyright trial concerning its "Stairway to Heaven" song, but the band may be heading ...

NYIPLA PROPOSES SUPREME COURT ADOPT A NEW TEST FOR COPYRIGHT PROTECTION IN CHEERLEADER UNIFORM CASE
URL: http://www.ipwatchdog.com/2016/07/26/nyipla-new-test-copyright-cheerleader-uniform-case/id=71238/

This case concerns Star Athletica's alleged infringement of Varsity Brands' purported copyrights in the design of certain cheerleading uniforms. Under the Copyright Act, because clothing
possesses an intrinsic utilitarian function (covering the body, providing warmth and protection from the elements, etc.), clothing designs historically have not been protected by copyright unless the claimed design is physically or conceptually separable from the garment's utilitarian features. The district...

COPYRIGHT IN TAIWAN: THE CHINA FACTOR
via Hugh Stephens Blog on 7/26/2016
URL: http://hughstephensblog.net/2016/07/26/copyright-in-taiwan-the-china-factor

In my last blog, I talked about Taiwan's history of weak intellectual property protection going back to the days of the "ingenious rascals", the industrial-scale book pirates of Chungking Street in the 1950s and 1960s, but also about the remarkable change that has taken place in recent years as it has climbed the ladder of creativity and innovation.

11TH CIRC. DEMOLISHES ANOTHER HOME-DESIGN COPYRIGHT SUIT
via Intellectual Property Law360 by Bill Donahue on 7/26/2016
URL: http://www.law360.com/ip/articles/821583

An Eleventh Circuit panel ruled Tuesday that a major luxury homebuilder couldn't sue a rival firm for copyright infringement for building similar-looking homes, reiterating that such architectural designs are entitled only to thin protection.

TREAT STREAMING THE SAME AS CABLE, INTEREST GROUPS SAY
via Intellectual Property Law360 by Bill Donahue on 7/26/2016
URL: http://www.law360.com/ip/articles/821408

Public interest groups pressed the D.C. Circuit on Tuesday to give streaming services like FilmOn X access to the same automatic copyright license afforded to cable companies, saying U.S. law should not "privilege incumbent video distribution services."

KIRTSAENG II: FEES IN COPYRIGHT CASES DEPEND ON REASONABLENESS OF LITIGATION POSITION
URL: http://www.natlawreview.com/article/kirtsaeng-ii-fees-copyright-cases-depend-reasonableness-litigation-position

Under 17 USC § 505, a "court may . . .
3RD CIRC. WON'T RETHINK SUSPENSION OF 'STAIRWAY' ATTY
URL: http://www.law360.com/ip/articles/821862

The Third Circuit summarily refused Tuesday to reconsider the three-month suspension of the attorney who recently lost the closely watched "Stairway to Heaven" copyright infringement case, letting stand a Pennsylvania federal court's finding of misconduct in a separate musical copyright suit.

PLAINTIFF APPEALS 'STAIRWAY TO HEAVEN' COPYRIGHT VERDICT
via New York Post by Richard Morgan on 7/26/2016

Skidmore established during a six-day trial in Los Angeles that his side had a valid copyright to "Taurus" and that Led Zeppelin heard the song before ...

BEYONCÉ CLAIMS 'LEMONADE' DID NOT RIP OFF 'PALINOIA' SHORT FILM
via Music Times by Inigo Monzon on 7/26/2016

... Ferber forwarded a motion to the Southern District Court of New York and maintained that his client's visual album did not violate any copyright laws.

COPYRIGHT ON INDUSTRIAL DESIGN: THE IP COURT OF MILAN GRANTS PROTECTION TO THE MOON BOOTS
via Lexology by Elena Martini on 7/26/2016
URL: http://www.lexology.com/library/detail.aspx?g=760d43b2-6cbd-40d8-b3fc-3a4d1eb4a71f

In a decision published on 12 July (no. 8628/2016), the IP Court of Milan granted copyright protection to the Moon Boots by Tecnica Group S.p.A., the ...

EFF SAYS SECTION 1201 OF DMCA IS UNCONSTITUTIONAL
via The Illusion of More by David Newhoff on 7/27/2016
URL: http://illusionofmore.com/eff-says-section-1201-of-dmca-is-unconstitutional/

Last week, the Electronic Frontier Foundation filed suit against the federal government, naming the DOJ and the Copyright Office as defendants. The EFF filed on behalf of plaintiffs Dr. Mitchell Green, a computer scientist and researcher at Johns Hopkins; Andrew ...
DMCA SAFE HARBOR PROTECTION INCLUDES PRE-1972 RECORDINGS

Vacating a district court's decision, the US Court of Appeals for the Second Circuit explained that the safe harbor provision of the Digital Millennium Copyright Act (DMCA) protects material posted on websites of online hosts from liability, even for so-called pre-1972 recordings that are not covered by federal copyright law.

GOOGLE ANTI-PIRACY REPORT CRITICISED BY CONTENT OWNERS
via Intellectual Property Watch by Dugie Standeford on 7/27/2016

Google is doing more to counter online copyright infringement than ever before, it said in its "How Google Fights Piracy 2016 Update," claiming takedowns of over 500 million webpages in response to rights holder requests. Yet the music industry and an academic said the company needs to up its game.

JARED LETO AIMS TO SAVE LAWSUIT AGAINST TMZ OVER VIDEO POSTING
URL: http://www.hollywoodreporter.com/thr-esq/jared-leto-aims-save-lawsuit-914922

The actor and musician disputes the contention he doesn't own the video where he curses Taylor Swift.

LIBRARIES, GROUPS WELCOME WIPO COPYRIGHT APPOINTMENT, WITH HOPE

A range of highly active groups at the World Intellectual Property Organization representing libraries, archives, and digital civil liberties this week welcomed the appointment of a copyright industry lobbyist to lead WIPO copyright issues. But they have voiced their hope that the appointee, Sylvie Forbin of France, will quickly show leadership on the promotion and support of the cultural heritage sector as it relates to copyright.
PHOTOGRAPHER SUES GETTY IMAGES FOR SELLING PHOTOS SHE DONATED TO PUBLIC
via Ars Technica by Cyrus Farivar on 7/27/2016

A well-known American photographer has now sued Getty Images and other related companies—she claims they have been wrongly been selling copyright license for over 18,000 of her photos that she had already donated to the public for free, via the Library of Congress.

MUSO PIRACY REPORT SPOTS SOME NEW GLOBAL TRENDS
via Vox Indie by Ellen Seidler on 7/27/2016

A report in today's Torrent Freak noted that content protection firm (anti-piracy) firm Muso recently released its annual Global Piracy Insights Report for 2016 so I was prompted to take a look to see what what's new on the piracy landscape. According to the report there's been a, "massive shift towards direct downloads for music content - growing by 31% in 2015" In addition the report found that "28% of all visits to piracy sites in 2015 were through mobile devices, up 8% during the year."

SONY SUED OVER 2014 HACK THAT EXPOSED MOVIE TO PIRACY
URL: http://www.law360.com/ip/articles/822338

Sony Pictures Worldwide Acquisitions Inc. breached a distribution agreement by failing to prevent a massive November 2014 data breach that exposed several movies to piracy, the maker of one of those compromised films claimed in a lawsuit filed Wednesday in Florida federal court seeking millions in damages.

KIM DOTCOM'S LAWYER WILL ALSO REPRESENT ALLEGED KICKASSTORRENTS FOUNDER
via Ars Technica by Cyrus Farivar on 7/27/2016
URL: http://arstechnica.com/tech-policy/2016/07/kim-dotcoms-lawyer-will-also-represent-alleged-kickasstorrents-founder/

Just over a week ago, federal authorities announced the arrest of a Ukrainian man that they say is the mastermind of KickassTorrents (KAT), which, until recently, was the world's largest BitTorrent search site.
NEWSQUEST JOURNALISTS URGED NOT TO JUST 'FIND A PICTURE ON GOOGLE' BECAUSE OF GROWING NUMBER OF...
via PressGazette by Dominic Ponsford on 7/28/2016
URL: http://www.pressgazette.co.uk/newsquest-journalists-urged-not-to-just-find-a-picture-on-google-because-of-growing-number-of-copyright-claims/

In a memo circulated around the group he said: "Copyright claims against Newsquest are growing exponentially and are bringing real cost to the..."

SONY HACK RESULTS IN LAWSUIT OVER FAILURE TO PREVENT MOVIE PIRACY
URL: http://www.hollywoodreporter.com/thr-esq/sony-hack-results-lawsuit-failure-915251

According to the complaint, Sony contends it had "no obligation... to take any anti-piracy measures whatsoever" with regards to the film, "To Write Love on Her Arms."

URBAN TEXTILE INC. FILES COPYRIGHT SUIT OVER FABRIC DESIGNS
via Northern California Record on 7/28/2016

Urban Textile Inc. files copyright suit over fabric designs... are accused of distributing items featuring a copyrighted textile design without authorization.

STEPHEN COLBERT FACES IP THREAT OVER 'COLBERT' CHARACTER
via Intellectual Property Law360 by Bill Donahue on 7/28/2016
URL: http://www.law360.com/ip/articles/822538

Late night host Stephen Colbert said Thursday that he could no longer appear as his famous fictionalized persona because "corporate lawyers" from "another company" had claimed the conservative character as its intellectual property.

CAN VIACOM REALLY STOP STEPHEN COLBERT FROM PLAYING "STEPHEN COLBERT"?
URL: http://www.hollywoodreporter.com/thr-esq/can-viacom-stop-stephen-colbert-915340

Why a lawsuit has the potential of becoming one of the all-time great cases concerning split personality.
JOHN STEINBECK'S FAMILY SUES FOR COPYRIGHT FIGHT COVERAGE
URL: http://www.law360.com/ip/articles/822528

The son of John Steinbeck has sued his insurance company for denying coverage of an underlying 2014 lawsuit, brought by Steinbeck's late wife's daughter disputing who controls the movie and stage rights of the author's work, according to California federal court complaint filed Thursday.

TURTLES ATTYS WANT $50M CUT OF LABELS' PRE-1972 DEAL
via Intellectual Property Law360 by Bill Donahue on 7/28/2016
URL: http://www.law360.com/ip/articles/822570

Attorneys for The Turtles who won key rulings against Sirius XM Radio Inc. over pre-1972 records demanded Wednesday that the major labels pay more than $50 million in fees, once again accusing the record companies of essentially excluding the lawyers from their own victory party.

JUDGE CLEARS FOX SHOW 'EMPIRE' OF PIMP'S MEMOIR CLAIMS
URL: http://www.law360.com/ip/articles/822644

Fox and the creators and star of its TV series "Empire" on Wednesday beat a $10 million copyright infringement suit lodged by a self-described "gangsta pimp" after a California federal judge ruled that the pimp's memoir wasn't overly similar to the world portrayed in the hit show.

FOX NEWS SUED OVER USE OF MEXICO BORDER PHOTO ON WEBSITE
URL: http://www.hollywoodreporter.com/thr-esq/fox-news-sued-use-mexico-915435

This is one of several photography usage rights cases brought against Fox News in 2014.

AMICI JUMP INTO HIGH COURT'S APPAREL COPYRIGHT CASE
via Intellectual Property Law360 by Bill Donahue on 7/28/2016
URL: http://www.law360.com/ip/articles/822668

Intellectual property associations, public interest groups and prominent law professors all weighed in last week at the Supreme Court in a closely watched case over how copyright law applies to apparel, urging the justices to offer clear guidance in a murky area of law.
EMPIRE' BEATS "GANGSTA PIMP'S" $10M COPYRIGHT SUIT
via Hollywood Reporter - THR, Esq. by Ashley Cullins on 7/28/2016
URL: http://www.hollywoodreporter.com/thr-esq/empire-beats-gangsta-pimps-10m-915490

Pimpin' ain't easy, and neither is winning a copyright lawsuit against a major network.

NO QUESTION' GOOGLE COPYING JAVA NOT FAIR USE, ORACLE SAYS
URL: http://www.law360.com/ip/articles/822670

Oracle fired back Wednesday at Google's attempts to stub out its bid for a new trial after a high-profile jury verdict that found Google's use of Oracle's copyright Java software code was protected by fair use, saying "there's no question" the jury got it wrong.

PHOTOGRAPHER SUES GETTY IMAGES, ALLEGING IT IS WRONGLY SELLING LICENSES TO HER PUBLIC-DOMAIN PHOTOS
via Los Angeles Times by Michael Hiltzik on 7/28/2016

Photographer Carol Highsmith started donating copyrights to her photos to the Library of Congress in 1988. So when she got a letter demanding $120 ...

ELIZABETH BANKS CAN'T STROLL PAST $500K 'WALK OF SHAME' SUIT
URL: http://www.law360.com/ip/articles/822671

A California judge Thursday denied Elizabeth Banks' bid to ditch a state court contract suit alleging she and others pilfered from a writer's screenplay for the movie "Walk of Shame," delivering the actress a setback following her August victory against a federal copyright suit over similar allegations.

GETTY SUED FOR $1BN AFTER 'GROSS MISUSE' OF COPYRIGHT
via World IP Review by ymgerman on 7/29/2016

A photographer who claims Getty Images has been using her work without permission is suing the image library for $1 billion. In a lawsuit filed at the ...
WHY WE LOVE FAIR USE
via Medium by Ruth Vitale on 7/27/16
URL: https://medium.com/@CreativeFuture/why-we-love-fair-use-5fe087a0c89c#.q8pgt5zd8

Sometimes people say we are opposed to fair use. They are wrong. We love fair use!

IRON MAN' COMPOSER'S LAWSUIT OVER GHOSTFACE KILLAH SAMPLING REVIVED BY APPEALS COURT

Sony must again face copyright claims over the rapper's second album, "Supreme Clientele," and could be headed for the kind of trial that would go into some nuance about Marvel's history.

NAVY ACCUSED OF COPYRIGHT PIRACY
via Thomson Reuters by Jeff Matsuura & Craig Blakeley on 7/29/2016

broken copyright symbol In a recent lawsuit, the United States Navy has been accused of piracy - copyright, not maritime. A German software ...

PETA TAKES INFAMOUS "MONKEY SELFIE" LAWSUIT TO APPEALS COURT
via Hollywood Reporter - THR, Esq. by Ashley Cullins on 7/29/2016

The lawsuit that made copyright lawyers go ape is back for another round.

THE SUPREME COURT WILL CONSIDER A CASE ABOUT CHEERLEADING UNIFORMS
via Vice by Charles Duan on 7/29/2016
URL: http://motherboard.vice.com/read/star-athletica-varsity-brands

Two of the Varsity Brands-copyrighted uniforms in the Star Athletica v. Varsity Brands case. On the one hand, the stripe patterns would seem easily ...
PHOTOGRAPHER SUES GETTY IMAGES FOR $1 BILLION AFTER SHE'S BILLED FOR HER OWN PHOTO
via ABA Journal by Lorelei Laird on 7/29/2016
URL: http://www.abajournal.com/news/article/photographer_sues_getty_images_alleging_it_iswrongly_selling_licenses_to_h

Furthermore, her lawsuit says, Getty nowhere identified her as the sole creator or copyright owner of the photographs it was hawking to the public.

GETTY IMAGES, ALAMY AND PICSCOUT FACE $1BN LAWSUIT FOR ILLEGALLY SELLING FREE USAGE PHOTOGRAPHS
URL: http://www.ibtimes.co.uk/getty-images-face-1bn-lawsuit-illegally-selling-photos-meantbe-used-free-by-public-1573283

Hilariously, the lawsuit states that Highsmith was only made aware of the ongoing copyright infringement after a body called License Compliance ...

COPYRIGHT COUNSEL EAGER FOR CLARITY ON FAIR USE FOR VIRAL VIDEOS
via Law.com - Newswire by Megan Spicer on 7/29/2016
URL: http://www.law.com/sites/articles/2016/07/29/copyright-counsel-eager-for-clarity-on-fairuse-for-viral-videos/

Infringing someone's cat video is one thing, but licensing shops may be on shaky ground when it comes to police abuse clips.

SONY IRON MAN COPYRIGHT ROW GETS NEW LIFE AT 2ND CIRC.
URL: http://www.law360.com/ip/articles/823087

Sony Music Entertainment will have to face a lawsuit by the man who wrote the 1960s Iron Man theme song after the Second Circuit on Friday concluded the song's ownership was disputed and revived the writer's copyright claim over Ghostface Killah's sampling of the track.
2ND CIRC. REVIVES FIGHT OVER 'IRON MAN' THEME
via Courthouse News Service by Josh Russell on 7/29/2016

The Second Circuit on Friday revived a five-year-old copyright beef between rapper Ghostface Killah and Sony and the ...

MUSIC STARS PLEAD "DON'T USE OUR SONG" ON JOHN OLIVER'S HBO SHOW
via Bloomberg BNA by Anandashankar Mazumdar on 7/29/2016
URL: http://www.bna.com/music-stars-plead-b73014445630/

But Barry I. Slotnick, a copyright lawyer with Loeb & Loeb LLP, New York, said one could argue that those uses cross into quasi-commercial territory.
August 2016

A NEW AND FREE SERVICE LOOKS TO TACKLE COPYRIGHT INFRINGEMENT FOR PHOTOGRAPHERS
via Fstoppers by Peter House on 7/31/2016
URL: https://fstoppers.com/business/new-and-free-service-looks-tackle-copyright-infringement-photographers-140442

Last year I reported on Pixsy a start-up which was aiming to tackle copyright infringement for photographers. It looked promising but after giving it a ...

GETTY'S COPYRIGHT CLAIM BACKFIRES
via IP Pro The Internet by Barney Dixon on 7/31/2016
URL: http://ipprotheinternet.com/ipprotheinternetnews/article.php?article_id=5022

Getty Images might be regretting its $120 copyright claim against Carol Highsmith, because the photographer has responded emphatically with a $1 ...

WHY IS FIGHT FOR THE FUTURE ROCKING AGAINST THE TPP?
via The Illusion of More by David Newhoff on 8/1/2016
URL: http://illusionofmore.com/fight-future-rocking-tpp/

I will admit it right now. I have not read the full text of the Trans Pacific Partnership agreement. And I don't intend to. I also do not have even encyclopedia-entry knowledge about all of the other 11 countries involved ...

WARNER BROS TARGETS REDDIT LINKS IN COPYRIGHT ROW
via World IP Review on 8/1/2016

Warner Bros has accused social news networking site Reddit of infringing copyright via a forum dedicated to helping internet users access pirated ...

MONKEY SELFIE' COPYRIGHT CASE APPEALED TO 9TH CIRCUIT
via Reuters by Andrew Chung on 8/1/2016
URL: http://www.reuters.com/article/ip-monkey-copyright-idUSL1N1AI09D

Naruto, a rare crested macaque that took a now internationally famous "selfie," should be considered the author and copyright owner of the photo even ...
ULTIMATE ARMWRESTLING LEAGUE FLEXES ITS LEGAL MUSCLES OVER USE OF COPYRIGHTED PHOTO

The world of armwrestling has come a long way since the days of Lincoln Hawk (played by Sylvester Stallone) battling it out on the big stage in Las Vegas in the 1987 movie Over the Top. Multiple competitive armwrestling leagues now exist and the sport's popularity, both in viewer consumption and athlete participation, has steadily grown. Each league is similarly structured as a competitive armwrestling association consisting of set matches for monetary prizes.

SIRIUS WANTS PRE-1972 SONGS CLASS DECERTIFIED
via Intellectual Property Law360 by Bill Donahue on 8/1/2016
URL: http://www.law360.com/ip/articles/823398

Sirius XM Radio Inc. is urging a federal judge to rule that song owners seeking payment for pre-1972 songs must each sue individually, a potentially crushing blow to a long-running class action launched by 1960s rock band The Turtles.

COURT REINSTATES COPYRIGHT SUIT BY WRITER OF '60S 'IRON MAN' SONG
via Law.com - Newswire by Joel Stashenko on 8/1/2016

The Second Circuit has reinstated a copyright infringement claim of a songwriter who says the "Iron Man" theme he composed for a television adaptation of Marvel superheroes comics in the 1960s was illegally appropriated by hip hop artist Ghostface Killah.

ROSS STORES, GREENA ACCUSED OF USING COPYRIGHTED FABRIC DESIGNS
via Norcal Record by Wadi Reformado on 8/1/2016

LOS ANGELES - A Commerce company and a Dublin company are accused by a Los Angeles business of distributing garments with its copyrighted ...
LETTER ON FCC SET-TOP BOX REGULATION ONCE AGAIN CONFUSES THE ISSUE
via Mister Copyright by Kevin Madigan on 8/2/2016

Last week, a group of law professors wrote a letter to the acting Librarian of Congress in which they claim that the current FCC proposal to regulate cable video navigation systems does not deprive copyright owners of the exclusive rights guaranteed by the Copyright Act.

GETTY STOLE 47K SPORTS PHOTOS, SUIT SAYS
via Intellectual Property Law360 by Bill Donahue on 8/2/2016
URL: http://www.law360.com/ip/articles/823970

Getty Images Inc. was hit Tuesday with a second lawsuit in less than two weeks accusing the photo-licensing giant of asserting overreaching claims to tens of thousands of photos it doesn't own.

COPYRIGHT INFRINGEMENT PLEA AGAINST UPCOMING FILM SCRIPT DISMISSED
via The Times of India by Swati Deshpandel on 8/2/2016

In a major relief to producers of Mohenjo Daro, an epic period drama film starring Hrithik Roshan to be released soon, the Bombay high ...
FAILURE TO REGISTER LEBRON JAMES' TATTOO AS COPYRIGHT PROVES COSTLY
via Hollywood Reporter - THR, Esq. by Ashley Cullins on 8/2/2016

The game isn't over, but NBA 2K16 just scored big in a copyright lawsuit over players' tattoos.

TATTOO CO. LOSES SOME DAMAGES CLAIMS OVER 'NBA 2K' GAMES
via Intellectual Property Law360 by Joyce Hanson on 8/2/2016
URL: http://www.law360.com/ip/articles/824247

A New York federal judge on Monday dismissed a tattoo licensing company's bid to recover statutory damages and attorneys' fees in a copyright infringement suit against the makers of the "NBA 2K" video games over their depictions of National Basketball Association stars' tattoos.

NBA 2K VIDEOGAME MAKER WINS DISMISSAL OF BIG TATTOO DAMAGES CLAIM
via Reuters by Jonathan Stempel on 8/2/2016

Swain said U.S. copyright law imposed a "bright-line" rule precluding recovery of statutory damages when the first of a series of infringements occurred ...

SUPREME COURT CLARIFIES STANDARD FOR AWARDING ATTORNEY FEES IN COPYRIGHT CASES
via Lexology by Leslie Steinau on 8/2/2016
URL: http://www.lexology.com/library/detail.aspx?g=e999d5c1-95dd-4ced-b851-bf0bd0392a2b

In most lawsuits in this country, each party pays its own attorney fees regardless of who wins, except where a contract between the parties or a specific ...

EMBRACING OPEN SOURCE SOFTWARE: ADVANTAGES AND RISKS
URL: http://www.law.com/sites/articles/2016/08/02/embracing-open-source-software-advantages-and-risks/

Many business and government -organizations rely on open source software (OSS). One of the most common and widely known -examples is the Linux operating system. While the use of OSS can provide numerous advantages such as inexpensive and particularly robust software that has been debugged and -optimized by -numerous -programmers, there are also attendant risks. This article explores OSS and its use generally in commercial settings. An -overview of OSS is provided along with a discussion of its -popularity with programmers and several associated
risks. Additionally, a brief description of various OSS licenses is provided. A follow-up article will provide a strategy for developing a policy to manage OSS use.

REMEMBER THE MONKEY WHO CLICKED A SELFIE? NOW PETA FILES LAWSUIT TO GIVE HIM THE COPYRIGHT!
via India Times on 8/3/2016

The People for the Ethical Treatment of Animals (PETA) animal rights organisation has filed an appeal to the US Court of Appeals for justice to Naruto, ...

GETTY IMAGES SUED AGAIN OVER ALLEGED MISUSE OF OVER 47,000 PHOTOS
via Ars Technica by Cyrus Farivar on 8/3/2016

Getty Images has been hit with a second copyright-related lawsuit less than a week after famed photographer Carol Highsmith sued the company.

IP ROUNDTABLE - FORT WORTH, TX
via Legal Scholarship Blog by Mary Whisner on 8/3/2016
URL: http://www.legalscholarshipblog.com/2016/08/03/ip-roundtable-fort-worth-tx/


PAY UP! GETTY SENDS TROLLING LETTER TO PHOTOGRAPHER HIGHSMITH DEMANDING MONEY FOR HER OWN ...
via Forbes by Bryan Sullivan on 8/3/2016

(Public use, yes, but Highsmith still retains the copyrights to all of her photos). In addition, Getty and Alamy had been selling thousands of Highsmith's ...
U.S. COPYRIGHT OFFICE CRITICIZES FCC'S PLAN ON SET-TOP BOXES
via WSJ.com: Media & Marketing by John D. McKinnon on 8/3/2016

The U.S. Copyright Office criticized a federal agency's plan to open up the market for pay-TV set-top boxes in a letter to lawmakers on Wednesday.

2K SPORTS SCORES PARTIAL VICTORY IN BIZARRE TATTOO COPYRIGHT LAWSUIT
via Polygon by Owen S. Good on 8/3/2016

Take-Two Interactive, the parent company of 2K Sports, has won a partial but significant victory in a lawsuit over NBA players' copyrighted tattoos that ...

ONLY AWARENESS CAN MAKE THE COPYRIGHT LAW IMPACTFUL
via Daily Observer on 8/3/2016
URL: http://www.liberianobserver.com/lib-life/only-awareness-can-make-copyright-law-impactful

At long last, the Liberian government has met one of the several demands of the artistic community by introducing the hologram security stamp four ...

THE PLURAL TORT STRUCTURE OF COPYRIGHT LAW
via Jotwell by David Fagundes on 8/4/2016
URL: http://ip.jotwell.com/the-plural-tort-structure-of-copyright-law/

What kind of legal wrong is copyright infringement? Scholars tend to unreflectively regard copyright infringement as a tort. In his elegant and insightful recent article, Unbundling the 'Tort' of Copyright Infringement, Patrick Goold complicates this received wisdom by applying rigorous conceptual analysis to a body of law-copyright-that is rarely analyzed in those terms.

THE EFF CHALLENGES THE DMCA ANTI-CIRCUMVENTION PROVISION: A FIRST AMENDMENT FIGHT
via JOLT Digest by Priana Nawathe on 8/4/2016
URL: http://jolt.law.harvard.edu/digest/software/the-eff-challenges-the-dmca-anti-circumvention-provision-a-first-amendment-fight

In 1998, Congress enacted 17 U.S.C § 1201, better known as the anti-circumvention provision.
ASCAP, BMI LOSE BATTLE TO MODIFY ANTITRUST LICENSING AGREEMENTS
URL: http://www.law360.com/ip/articles/824954

In a blow to ASCAP and BMI, the U.S. Department of Justice said Thursday it had decided not to accept proposed changes to landmark music licensing antitrust agreements in place since 1941 that bind the music performance rights organizations.

THE DEFEND TRADE SECRETS ACT AND COPYRIGHT PREEMPTION
URL: http://www.law360.com/ip/articles/824029

Where the facts surrounding trade secret misappropriation might give rise to a challenge based on federal copyright preemption, a claim under the Defend Trade Secrets Act - as opposed to a claim under state law exclusively - should ensure that the trade secret claim survives a preemption challenge, says John Williamson of Finnegan Henderson Farabow Garrett & Dunner LLP.

HOW A JUSTICE DEPARTMENT RULING COULD AFFECT YOUR FAVORITE MUSICIAN
via NYT > Media & Advertising by Ben Sisario on 8/4/2016
URL: http://www.nytimes.com/2016/08/05/business/media/how-a-justice-department-ruling-could-affect-your-favorite-musician.html

The department, after a two-year investigation, decided to keep the complex regulatory environment of music licensing largely intact, with the addition of a rule requiring "100 percent" deals. This breaks down what that means.

US COPYRIGHT OFFICE SIDES WITH CABLE COMPANIES AGAINST FCC'S SET-TOP RULES
via Ars Technica by Jon Brodkin on 8/4/2016

The United States Copyright Office has sided with cable companies in their fight against a Federal Communications Commission plan to boost competition in the TV set-top box market.
FCC SET-TOP BOX PROPOSAL IS ABOUT COPYRIGHT  
via The Illusion of More by David Newhoff on 8/4/2016  
URL: http://illusionofmore.com/fcc-set-top-box-proposal-is-about-copyright/

Let's clear one thing up right off the bat. Consumers are not entitled to high-quality TV programming. It's a business. If that business doesn't make sense, the shows won't be produced. I know that seems obvious, but as with so ... 

YOUR VOICE HAS BEEN HEARD  
via CreativeFuture by Cesar Fishman on 8/4/2016  
URL: http://www.creativefuture.org/your-voice-has-been-heard/

Two months ago, we asked the Federal Communications Commission (FCC) to not hurt the TV shows and films we love and kill jobs. And we asked you, our members, to stand with us in opposing the FCC's #UnlockTheBox proposal.

"FREE" TV OR "FREE RIDING"?  
via Hugh Stephens Blog on 8/4/2016  
URL: http://hughstephensblog.net/2016/08/04/free-tv-or-free-riding

"Watch TV for Free" screamed the online ad. What? No more cable bills? Never again pay for content? How is this possible? Well my friend, just buy this "fully loaded" streaming TV box and let the era of free entertainment begin!

COPYRIGHT OFFICE CRITICIZES CABLE BOX PLAN FROM FCC DEMS  
via Washington Examiner by Rudy Takala on 8/4/2016  

The U.S. Copyright Office criticized a Democratic plan to open up the ... a valuable bundle of copyrighted works, and could repackage and retransmit ...

IMPROVING YOUTUBE'S CONTENT ID COULD HELP CREATORS OF ALL STRIPES  
via Vox Indie by Ellen Seidler on 8/4/2016  
URL: http://voxindie.org/improving-youtubes-content-id-to-help-all-creators/

Why not make Content ID more accessible and transparent?
FOX TELLS 9TH CIRC. FILMON X SHOULDN'T GET CABLE LICENSE
URL: http://www.law360.com/ip/articles/821610

Fox and other broadcasters urged the Ninth Circuit at a hearing Thursday to reverse a district judge's ruling that Internet companies like FilmOn X deserve the same automatic copyright license that allows cable companies to stream television programs, saying FilmOn was trying to convert a legal "mouse hole for an elephant."

SONG STAYS PRETTY MUCH THE SAME FOR ASCAP, BMI
URL: http://www.law360.com/ip/articles/825587

The U.S. Department of Justice's decision to keep the core of the ASCAP and BMI consent decrees intact sidesteps a closely watched, hotly contested issue that has captured the eyes, ears and keyboards of music industry titans and digital music entrepreneurs alike - whether to permit "partial withdrawals," says Daniel Vitelli of Constantine Cannon LLP.

WARNER BROS. CAN'T NIX ARTIST'S KING KONG IDEA THEFT CLAIM
URL: http://www.law360.com/ip/articles/825474

A California judge on Friday rejected Warner Bros.' bid to evade an artist's claims that the studio and Legendary Pictures stole ideas he had pitched about King Kong's origins for the upcoming film "Kong: Skull Island," saying the complaint properly alleges that the artist and Warner Bros. had an implied contract.

STEAK 'N SHAKE BUTCHERS RIVAL'S COPYRIGHT BEEF OVER ADS
URL: http://www.law360.com/ip/articles/825738

An Illinois federal judge on Friday dismissed a copyright infringement suit accusing Steak 'n Shake of copying a rival burger chain's TV commercial, saying the company failed to show that the commercials met the legal threshold of substantial similarity.
The music industry has identified a rare constituency willing to pay handsomely for music in the digital age: videogame-app makers.

In 2010, Oracle sued Google in California federal court for copyright infringement of their Java Code.

The International Confederation of Societies of Authors and Composers (CISAC) has expressed concern over the US Department of Justice decision ...

A recent extension of UK copyright for industrially manufactured artistic works represents "a direct assault on the 3D printing revolution," says Pirate Party founder Rick Falkvinge.

About a month ago, Oracle renewed its motion for judgment as a matter of law against Google and brought a Rule 59 motion for a new trial.
OPINION: DOJ GOT IT RIGHT ON ASCAP, BMI CONSENT DECREEs
URL: http://www.law360.com/ip/articles/825684

The ASCAP and BMI consent decrees are a good deal for music creators, owners and users. The changes proposed by the performing rights organizations and music publishers were unnecessary at best, and at worst would cause significant harm to the market, says David Balto, a former policy director at the Federal Trade Commission.

WHY TAYLOR SWIFT IS ASKING CONGRESS TO UPDATE COPYRIGHT LAWS
via NPR: Technology Podcast by Laura Sydell on 8/8/2016

It's an ongoing standoff between musicians and Google's YouTube: Who should be responsible for removing unauthorized copies of songs posted online?

WE SHALL OVERCOME' COPYRIGHT IS 'BOGUS,' FILMMAKER SAYS
via Intellectual Property Law360 by Bill Donahue on 8/8/2016
URL: http://www.law360.com/ip/articles/825689

The filmmakers suing to prove that 1960s protest song "We Shall Overcome" is in the public domain on Friday blasted a recent bid to toss the class action, urging a federal judge to give them a shot at invalidating a "bogus copyright."

MONKEYS CAN OWN COPYRIGHTS, PRIMATE EXPERT TELLS 9TH CIRC.
via Intellectual Property Law360 by Bill Donahue on 8/8/2016
URL: http://www.law360.com/ip/articles/826116

People for the Ethical Treatment of Animals and its attorneys at Irell & Manella have recruited a renowned primatologist in their efforts to convince the Ninth Circuit that monkeys can own copyrights.

NO MAN'S SKY' DAY ZERO PATCH DETAILED, REPORT HINTS AT COPYRIGHT STRIKES FOR NMS YOUTUBE ...
via IBT by Gel Galang on 8/8/2016

Over the official "No Man's Sky" website, Hello Games' Sean Murray has given quite a long list of updates, most of which have been done during the ...
MUSIC PUBLISHER DENIED LEGAL FEES AWARD FOR "STAIRWAY TO HEAVEN" TRIAL
via Hollywood Reporter - THR, Esq. by Ashley Cullins on 8/8/2016
URL: http://www.hollywoodreporter.com/thr-esq/music-publisher-denied-legal-fees-918170

Warner/Chappel will have to foot the $800,000 bill for its legal fees and costs.

DESPITE 'STAIRWAY' WIN, LED ZEPPELIN LOSES BID FOR FEES
URL: http://www.law360.com/ip/articles/826331

A California federal judge denied Warner/Chappell Music's request for nearly $800,000 in attorneys' fees and costs the company incurred defending against accusations that "Stairway to Heaven" infringed an obscure rock song, saying Monday the lawsuit against Led Zeppelin wasn't "frivolous or objectively unreasonable."

BLACKBERRY SUES AVAYA FOR COPYRIGHT INFRINGEMENTS
via CRN by Brendon Foye on 8/8/2016

The smartphone vendor alleges that Avaya used Blackberry's copyrighted IP in products ranging from IP desk phones, video conferencing systems ...

A LOOK INSIDE THE FORENSIC ANALYSIS OF SOFTWARE COPYRIGHT INFRINGEMENT
via Law.com - Newswire by Bob Zeidman on 8/8/2016
URL: http://www.law.com/sites/articles/2016/08/05/a-look-inside-the-forensic-analysis-of-software-copyright-infringement/

Software code contains both trade secrets in the functionality and copyrightable expression in the way it is written.

PAMELA LOVE SUES NASTY GAL FOR COPYING THREE COPYRIGHT PROTECTED DESIGNS
via The Fashion Law on 8/9/2016
URL: http://www.thefashionlaw.com/home/pamela-love-sues-nasty-gal-for-copying-three-copyright-protected-designs

THE FASHION LAW EXCLUSIVE - On the heels of Nasty Gal founder Sophia Amoruso's induction into the Council of Fashion Designers of America ...
A federal judge set Halloween for a jury trial in a multimillion-dollar copyright fight over the hit musical "Jersey Boys," between a ...
chastised the plaintiff's attorney, Francis Malofiy, about his "tasteless courtroom antics and litigation misconduct."

**JUDGE UPHOLDS $25 MILLION JUDGMENT AGAINST ISP OVER USER PIRACY**

BMG gets another win in a landmark copyright case, but won't be given the benefit of a permanent injunction.

**ORACLE SAYS GOOGLE'S BID TO SANCTION LAWYER IS A REACH**
via Intellectual Property Law360 by Kat Greene on 8/9/2016
URL: [http://www.law360.com/ip/articles/826542](http://www.law360.com/ip/articles/826542)

Oracle shot back at Google's bid for sanctions over an Orrick Herrington & Sutcliffe LLP attorney's alleged disclosure of court-protected secrets at an open hearing in the rivals' dispute over Oracle's Java code in California, saying Monday the sanctions request was "unprecedented."

**SANITIZING FILMS BY COMPANY VIDANGEL SUED BY HOLLYWOOD STUDIOS**
via The Washington Times by Julia Proterfield on 8/9/2016

The studios claim that the unauthorized sale of copyrighted films and television shows in a video-on-demand format is unlawful. VidAngel argues that ...

**ED SHEERAN ACCUSED OF CRIBBING 'LET'S GET IT ON' FOR HIT SONG**
via Intellectual Property Law360 by Kat Greene on 8/9/2016
URL: [http://www.law360.com/ip/articles/826791](http://www.law360.com/ip/articles/826791)

Pop singer Ed Sheeran stole the harmonic progressions and melodic and rhythmic elements that make up the heart of the Marvin Gaye classic "Let's Get It On" for his 2014 hit "Thinking Out Loud," according to a lawsuit filed by some of the iconic song's owners in New York federal court Tuesday.
MUSICIAN ED SHEERAN FACES COPYRIGHT LAWSUIT OVER 'THINKING OUT LOUD'
via Reuters by Eric M. Johnson on 8/9/2016
URL: http://www.reuters.com/article/us-music-edsheeran-lawsuit-idUSKCN10L04X

Heirs of the composer for Marvin Gaye's "Let's Get It On" sued British musician Ed Sheeran on Tuesday, claiming his hit song "Thinking Out Loud" ...

SINGER ED SHEERAN FACES COPYRIGHT LAWSUIT FOR 'THINKING OUT LOUD' OVER MARVIN GAYE SONG
via The Telegraph on 8/9/2016

The copyright infringement lawsuit was filed by the heirs of Ed Townsend, who co-wrote the lyrics to "Let's Get It On" in 1973 and created its musical ...

ORACLE FIGHTS BACK AGAINST GOOGLE'S ATTEMPT TO SANCTION A LAWYER AFTER TRIAL
via Ars Technica by Joe Mullin on 8/10/2016

A copyright dispute between Oracle and Google was resolved in May by a federal jury, which found that Google's Android operating system didn't infringe copyrighted code owned by Oracle.

16TH IP SCHOLARS CONFERENCE AT STANFORD
via Written Description by Lisa Ouellette on 8/10/2016

The 16th IP Scholars Conference (IPSC) will be held at Stanford Law School tomorrow and Friday, with about 150 presentations and 200 attendees from around the world.

SOUNDEXCHANGE APPEALS DISMISSAL OF MUZAK ROYALTY SUIT
via Intellectual Property Law360 by Cara Salvatore on 8/10/2016
URL: http://www.law360.com/ip/articles/826801

The D.C. Circuit got an earful in the war over music royalty rates when a royalty-collection operation trying to revive its suit accused a major satellite TV music company of abusing a congressionally granted exception to paying the minimum rates.
HBO WANTS FEES AFTER SACKING 'BALLERS' COPYRIGHT SUIT
via Intellectual Property Law360 by Bill Donahue on 8/10/2016
URL: http://www.law360.com/ip/articles/827002

HBO is demanding its legal fees from two screenwriters who filed a quickly-dismissed copyright infringement lawsuit over the comedy series "Ballers."

MEDIA, SPORTS INDUSTRIES RATTLED BY PLANNED EU COPYRIGHT SHAKE-UP
via Reuters by Julia Fioretti on 8/10/2016
URL: http://www.reuters.com/article/us-eu-copyright-idUSKCN10L1T2

The copyright reform proposal is expected to be made in late September but will then have to be approved by EU governments and the European ...  

CITING TYPO, 7TH CIRC. REVIVES FARRAHAN COPYRIGHT CASE
via Intellectual Property Law360 by Bill Donahue on 8/10/2016
URL: http://www.law360.com/ip/articles/827202

A Seventh Circuit panel on Wednesday revived a copyright case over a painted portrait of Nation of Islam leader Louis Farrakhan published in the group's official newspaper, though it admitted the lower court's error was partially due to a typo in a precedential ruling that the circuit court issued.

LINKEDIN SUES TO STOP CREATORS OF DATA-SCRAPING BOTS
via Intellectual Property Law360 by Daniel Siegal on 8/10/2016
URL: http://www.law360.com/ip/articles/826347

LinkedIn has filed suit in California federal court against the unidentified creators of automated software programs, or bots, accusing them of registering thousands of fake profiles on the social network to steal data about legitimate users, breaching the user agreement and violating federal computer fraud law.

CABINET APPROVES DRAFT AMENDMENT TO COPYRIGHT ACT
via Focus Taiwan by Tai Ya-cheng & Y.F. Low on 8/11/2016

One of the new offenses listed is reproducing a copyrighted work in digital format without authorization with the intent to sell or rent, according to the ...
THE ASIAN DILEMMA: LEAPS IN TECHNOLOGY BRING NEW FORMS OF PIRACY
via Hugh Stephens Blog » Feed on 8/11/2016

We have all the seen the famous photo of the Buddhist monk, clad in his saffron robes and riding his motorcycle, with his cell phone clamped to his ear.

IN SEARCH OF A PREDICTABLE STANDARD FOR ATTORNEY FEES IN COPYRIGHT CASES
via Law.com - Newswire by Elizabeth A. McNamara & John M. Browning on 8/11/2016

In their Media Law column, Elizabeth A. McNamara and John M. Browning write: Fans of predictable bright-line rules, including attorneys advising copyright clients on the likelihood of an attorney fee award, may well feel dismayed by the U.S. Supreme Court's ruling in 'Kirtsaeng v. John Wiley & Sons.' But despite lingering uncertainty, copyright practitioners can take away several important lessons.

APPEALS COURT UPHOLDS U.S. GOVERNMENT'S SEIZURE OF MEGAUPLOAD'S MEGA-MILLIONS
via Hollywood Reporter - THR, Esq. by Eriq Gardner on 8/12/2016

The 4th Circuit rejects the contention that a federal statute disentitling fugitives from defending property claims against government forfeiture actions is a violation of due process rights.

FTC AND DOJ ANTITRUST DIVISION SEEK COMMENT ON PROPOSED UPDATE TO IP LICENSING GUIDELINES
URL: http://www.ipwatchdog.com/2016/08/12/ftc-doj-antitrust-ip-licensing-guidelines/id=71889/

The IP Licensing Guidelines, which state the agencies' antitrust enforcement policy with respect to the licensing of intellectual property protected by patent, copyright, and trade secret law and of know-how, were issued in 1995 and are now being updated.
THE COPYRIGHT CASE THAT SHOULD WORRY ALL INTERNET PROVIDERS
via The Washington Post by Brian Fung on 8/12/2016
URL: https://www.washingtonpost.com/news/the-switch/wp/2016/08/12/the-copyright-case-that-should-worry-all-internet-providers/

Will Internet providers have to start cracking down harder on their own customers for suspected copyright infringement? That's one of the big questions ...

COPYRIGHT OWNER DENIED ATTORNEYS' FEES IN SUIT AGAINST POPCORN TIME USER-COBBLER V. DOE
via Technology & Marketing Law Blog by Eric Goldman on 8/12/2016

This lawsuit involves the unauthorized download of a 2015 Adam Sandler movie, The Cobbler.

MONKEY SELFIE: ANIMAL CHARITY PETA CHALLENGES RULING
via BBC on 8/12/2016

An animal charity has appealed against a court decision which ruled a monkey could not own the copyright to a selfie photograph it took. A monkey ...

CBS 'PRE-1972' DISMISSAL BID MUST WAIT FOR APPELLATE COURTS
via Intellectual Property Law360 by Pete Brush on 8/12/2016
URL: http://www.law360.com/ip/articles/827992

U.S. District Judge John G. Koeltl scuttled five months of summary judgment briefings Friday in ABS Entertainment Inc.'s New York suit seeking royalties from CBS Corp. over pre-1972 recordings, saying the network's bid to escape the proposed class action will have to be fully redrawn after two appellate courts weigh in.

THE DOJ & SONGWRITERS SIMPLIFIED (MOSTLY)
via The Illusion of More by David Newhoff on 8/12/2016
URL: http://illusionofmore.com/the-doj-songwriters-simplified-mostly/

The performing rights organization (PRO) called ASCAP was formed on February 13, 1914 when a group of about 100 American composers met at the Hotel Claridge in New York City to create a mechanism for collecting "public performance" royalties. The ...
GOOGLE, ORACLE SHOULD LET YOUNG ATTYS ARGUE, JUDGE SAYS
via Intellectual Property Law360 by Kelly Knaub on 8/12/2016
URL: http://www.law360.com/ip/articles/828058

Google Inc. and Oracle America Inc. attorneys should give their young attorneys opportunities to argue in court, a California federal judge told the parties in a short order on Friday in a dispute over whether Oracle's Java code can be copyrighted.

COURT: US SEIZURE OF KIM DOTCOM'S MILLIONS AND 4 JET SKIS WILL STAND
via Ars Technica by Cyrus Farivar on 8/12/2016

The 4th Circuit Court of Appeals ruled Friday in favor of the American government's seizure of a large number of Megaupload founder Kim Dotcom's overseas assets.

4TH CIRC. SAYS FEDS CAN SEIZE MILLIONS FROM MEGAUPLOAD BOSS
via Intellectual Property Law360 by Y. Peter Kang on 8/12/2016
URL: http://www.law360.com/ip/articles/828159

A split Fourth Circuit on Friday affirmed a lower court ruling ordering the seizure of millions of dollars in assets from Megaupload Ltd. founder Kim Dotcom and others facing criminal charges over the defunct file-sharing service, saying the defendants are fugitives who forfeited certain rights over the assets.

UMG, GLOBAL EAGLE REACH DEAL FOR IN-FLIGHT MUSIC IP SUIT
via Intellectual Property Law360 by Melissa Daniels on 8/12/2016
URL: http://www.law360.com/ip/articles/828275

UMG Recordings and in-flight entertainment provider Global Eagle Entertainment have reached a settlement resolving claims in a California federal court case over alleged infringement of 4,500 UMG-owned songs, with Global Eagle agreeing to give UMG $15 million in cash plus nearly 1.4 million stock shares.
REDDIT TELLS LABEL IT WON'T COUGH UP IP ADDRESS OF PRERELEASE MUSIC PIRATE
via Ars Technica by David Karvets on 8/15/2016

Reddit says it won't give Atlantic Records the IP address of a Reddit user who posted a link on the site of a single by Twenty One Pilots a week before the song's planned release.

BMI SAYS IT NEVER CONCEDED FULL LICENSING OF MUSIC RIGHTS
via Intellectual Property Law360 by Eric Kroh on 8/15/2016
URL: http://www.law360.com/ip/articles/828386

BMI told a New York federal court Friday it has always maintained it should be allowed to grant fractional rights to songs under a decadesold antitrust consent decree it is challenging, contrary to what the government may say.

DOJ AND FTC COMMENT ON PROPOSED UPDATE TO 1995 INTELLECTUAL PROPERTY LICENSING GUIDELINES

At the end of last week, the U.S. Department of Justice (DOJ) and the Federal Trade Commission (FTC) invited comments from interested parties on a proposed update to their 1995 "Antitrust Guidelines for the Licensing of Intellectual Property" (the Proposed Update). The comment deadline is September 26, 2016.

THE EUROPEAN UNION EXTENDS COPYRIGHT IN DESIGN-AND CRITICS BALK (YET AGAIN)
via CPIP by Bhamati Viswnathan on 8/15/2016

The European Union recently decided to support the productive labors of designers by extending legal protections of their works in all areas of copyright, design, and patent law.
RIAA LOSES BID FOR 2ND CIRC. TO RETHINK VIMEO RULING
via Intellectual Property Law360 by Kurt Orzeck on 8/15/2016
URL: http://www.law360.com/ip/articles/828855

The Second Circuit Monday refused to rehear en banc its ruling that the Digital Millennium Copyright Act's safe harbors protect online hosts such as Vimeo from liability even for pre-1972 recordings that aren't covered by federal copyrights, dealing a blow to Capitol Records and the Recording Industry Association of America.

COPYRIGHT CASES INVOLVING ILLEGAL PORN DOWNLOADS SURGE IN NORTHERN ILLINOIS
via WTTW by Paul Caine on 8/15/2016
URL: http://chicagotonight.wttw.com/2016/08/15/copyright-cases-involving-illegal-porn-downloads-surge-northern-illinois

They're informed they've been identified as having downloaded a copyrighted video via their unique internet address. "In most of the cases it's a ...

3D PRINTING DENIED - PATENTS AND COPYRIGHT LAW
via 3D Printing Industry on 8/15/2016

A Product Designer and overall creative person, with a passion for all things design. I have a particular interest in cosplay and the violin, but I'm an ...

UNIVERSAL NETS $20M AFTER IN-FLIGHT ENTERTAINMENT COPYRIGHT ROW
via World IP Review on 8/16/2016

A provider of in-flight entertainment on American Airlines has agreed to pay Universal Music Group $20 million following a two-year copyright battle.

COX SAYS DEAL WITH FEES AFTER $25M MUSIC IP APPEAL
via Intellectual Property Law360 by Michael Macagnone on 8/16/2016
URL: http://www.law360.com/ip/articles/828719

Cox Communications Inc. urged a Virginia federal judge to hold off on awarding BMG Rights Management legal fees after its $25 million copyright verdict, arguing Monday that Cox has been reasonable throughout the dispute and stands a decent chance of victory on appeal.
EFF CHALLENGES DMCA ANTI-CIRCUMVENTION PROVISIONS, REOPENS "DANCING BABY" CASE
via Intellectual Property Watch by Dugie Standeford on 8/16/2016

Issues arising from the often-controversial US Digital Millennium Copyright Act (DMCA) prompted the Electronic Frontier Foundation to head to court in recent weeks to address what it sees as violations of free speech and the right to freely use copyrighted content in some instances.

ELIZABETH BANKS WINS ATTYS' FEES IN 'WALK OF SHAME' SUIT
via Intellectual Property Law360 by Melissa Daniels on 8/16/2016
URL: http://www.law360.com/ip/articles/829082

A California federal judge on Monday awarded more than $319,000 in attorneys' fees and costs to actress Elizabeth Banks and others in a tossed copyright infringement suit over the movie "Walk of Shame," brought by Shame On You Productions Inc., who allege the movie ripped off a screenplay presented to Banks years earlier.

LINKEDIN UNLEASHES THE CFAA ON UNAUTHORIZED BOTS
via FindLaw Writ - Recent Articles by Casey C. Sullivan, Esq. on 8/16/2016

LinkedIn, the Facebook for resumes, has filed suit in the Northern District of California against 100 unnamed individuals accused of using bots to scrape information from its website. The suit accuses the Doe defendants of violating the Computer Fraud and Abuse Act, a federal anti-hacking law. The lawsuit comes......

COPYRIGHT CASE AGAINST R&B ARTIST JEREMIH, UNIVERSAL MUSIC PROCEEDS
via Reuters by Andrew Chung on 8/16/2016
URL: http://www.reuters.com/article/ip-defjam-copyright-idUSL1N1AX2CJ

A federal judge has refused to narrow a copyright infringement case accusing R&B singer Jeremih of swiping a Danish photographer's image for the ...
CLOUDFLARE'S DESPERATE NEW STRATEGY TO PROTECT PIRATE SITES
via CPIP by Devlin Hartline on 8/17/2016
URL: http://cpip.gmu.edu/2016/08/17/clooflares-desperate-new-strategy-to-protect-pirate-sites/

San Francisco-based CloudFlare has earned a somewhat dubious reputation in the online world.

US AGENCIES SEEK COMMENT ON UPDATED ANTITRUST GUIDELINES FOR IP LICENSING

In an age when licensing of intellectual property plays a critical role in business strategy, the United States Department of Justice and Federal Trade Commission are seeking public comment on a proposed update of the antitrust guidelines for IP licensing.

THE INTERNET'S SAFE HARBOR JUST GOT A LITTLE LESS SAFE
via Wired on 8/17/2016

The court found that Cox was liable for the alleged copyright infringement carried out by its customers, safe harbor or not. The decision might not rattle ...

SUPREME COURT REVISITS ATTORNEY FEE STANDARDS

In their Copyright Law column, Robert W. Clarida and Robert J. Bernstein discuss 'Kirtsaeng v. John Wiley & Sons,' a case that has earned a previously unprecedented second trip to the Supreme Court for review of the standards for awarding attorney fees to prevailing parties in copyright cases.

NBA 2K' VIDEOGAME PUBLISHER WANTS JUDGMENT ALLOWING USE OF PLAYER TATTOOS
URL: http://www.hollywoodreporter.com/thr-esq/nba-2k-video-game-publisher-wants-920252

Take-Two also alleges that LeBron James' tattoo was submitted to the Copyright Office fraudulently.
THE COMPLICATED ROLE OF COPYRIGHT IN EU PAY-TV CASE
via Intellectual Property Law360 by Becket McGrath & Trupti Reddy on 8/17/2016
URL: http://www.law360.com/ip/articles/829440

While the European Commission's decision to close its antitrust investigation of Paramount Pictures does not mark the end of the pay-TV investigation, which continues against other studios and broadcasters, the history of the case and the terms of this settlement provide an interesting insight into the EC's current views on the interaction between competition law and copyright, say Becket McGrath and Trupti Reddy of Cooley LLP.

JUDGE MAY ORDER A NEW ORACLE V. GOOGLE RETRIAL OVER EVIDENCE UNWISELY WITHHELD BY GOOGLE
via FOSS Patents by Florian Mueller on 8/17/2016
URL: http://www.fosspatents.com/2016/08/judge-may-order-new-oracle-v-google.html

Thanks to Twitter coverage by Mike Swift (MLex), Sarah Jeongg (Motherboard, EFF) and Ross Todd (The Recorder), I just had the opportunity to "follow" the Oracle v. Google post-trial motion hearing in the Northern District of California.

ORACLE SAYS TRIAL WASN'T FAIR, IT SHOULD HAVE KNOWN ABOUT GOOGLE PLAY FOR CHROME
via Ars Technica by Joe Mullin on 8/17/2016

Oracle lawyers argued in federal court today that their copyright trial loss against Google should be thrown out because they were denied key evidence in discovery.

COPYRIGHT DISPUTE OVER MERCHANDISING SOFTWARE TOSSED
URL: http://www.law360.com/ip/articles/829341

A California federal judge on Tuesday tossed a suit brought by a South Korean native who claims he was coerced by threats to jeopardize his visa into giving up his rights to a merchandising software program he developed, saying the asserted claims don't require interpretation of the Copyright Act.
ATTYS GET $4.6M IN FEES FOR 'HAPPY BIRTHDAY' COPYRIGHT SUIT
URL: http://www.law360.com/ip/articles/829697

A California federal judge Tuesday approved a $4.6 million fee request for attorneys who secured a $14 million settlement of a copyright class action placing "Happy Birthday To You" in the public domain, saying the results achieved and other factors warranted the award.

ORACLE SAYS JURY ERRED, ASKS JUDGE TO NIX GOOGLE IP WIN
via Intellectual Property Law360 by Cara Bayles on 8/17/2016
URL: http://www.law360.com/ip/articles/829663

Oracle urged a California federal judge Wednesday to override a jury's May verdict and find that Google infringed its Java software copyright, or at least grant a new trial, arguing Google withheld important evidence and wasn't entitled to assert fair use because it used the code for commercial development.

FOX, 'EMPIRE' CREATORS CAN'T DODGE STOLEN CHARACTER SUIT
via Intellectual Property Law360 by Dorothy Atkins on 8/17/2016
URL: http://www.law360.com/ip/articles/829252

A Michigan federal judge refused to toss copyright infringement claims Tuesday accusing Fox and the creators of the television show "Empire" of basing the Cookie Lyon character off a female ex-drug boss's memoir, but ruled the alleged infringement hasn't caused the writer to suffer economically.

9TH CIRC. TOLD TO REVIVE 'BIG PIMPIN' IP ROW WITH NEW JUDGE
URL: http://www.law360.com/ip/articles/829726

An Egyptian composer's nephew Tuesday told the Ninth Circuit a California judge erred in ruling he lacked standing to sue Jay Z for infringement of his uncle's ballad for the chart-topper "Big Pimpin'," saying the case should be assigned a new judge on remand.

3 INSURERS ELUDE COVERAGE IN SPORTS PHOTOGS IP SUIT
via Intellectual Property Law360 by Steven Trader on 8/18/2016
URL: http://www.law360.com/ip/articles/829898

A trio of insurers including State Farm Insurance on Wednesday escaped coverage of an underlying sports photo copyright suit brought by two Wisconsin photographers, after a federal judge concluded that policy exclusions applied or the type of infringement covered didn't occur.
APPEALS COURT REVERSES LIVE NATION WIN IN RUN-DMC MERCHANDISE SUIT
via Hollywood Reporter - THR, Esq. by Ashley Cullins on 8/18/2016

The panel finds the merchandiser's summary judgement win on issues of willful infringement was premature.

ALSUP MUSES OVER POSSIBILITY OF NEW ORACLE-GOOGLE TRIAL
via Law.com - Newswire by Ross Todd on 8/18/2016
URL: http://www.law.com/sites/articles/2016/08/17/alsup-muses-over-possibility-of-new-oracle-google-trial/

The judge presses Google lawyers over why they didn't disclose a new Android OS for laptops until the trial over Java copyright was nearly complete.

JUDGE GRANTS HAPPY BIRTHDAY LAWYERS $4.6M, CITING "UNUSUALLY POSITIVE RESULTS"
via Ars Technica by Joe Mullin on 8/18/2016

The attorneys who moved the song Happy Birthday into the public domain will receive $4.62 million in fees, according to a judge's fee order (PDF) published Tuesday.

ORACLE JAVA COPYRIGHT WAR LATEST: WHY GOOGLE'S LUCK IS ABOUT TO RUN OUT
via The Register by Andrew Orlowski on 8/18/2016
URL: http://www.theregister.co.uk/2016/08/18/oracle_java_retrial_analysis/

Analysis Oracle says one of the foundations of Google's legal victory in the Java API copyright trial has exploded - and that means a retrial is needed.

9TH CIRC. REVIVES PHOTOGRAPHER'S LIVE NATION COPYRIGHT SUIT
via Intellectual Property Law360 by Melissa Daniels on 8/18/2016
URL: http://www.law360.com/ip/articles/830146

A Ninth Circuit panel on Thursday revived a music photographer's lawsuit against Live Nation Merchandise Inc. over a Run-DMC photograph they used without his permission, saying a lower court incorrectly tossed the suit's willful copyright infringement claims.
JUDGE REJECTS FOX'S BID TO TOSS EX-FELON'S 'EMPIRE' COPYRIGHT LAWSUIT
via Hollywood Reporter - THR, Esq. by Eriq Gardner on 8/18/2016

Sophia Eggleton will move forward in a claim that the character of "Cookie" Lyon is copied from her 2009 memoir "The Hidden Hand."

SECOND CIRCUIT FINDS DMCA GRANTS SAFE HARBOR TO SERVICE PROVIDERS FOR PRE-1972 SOUND RECORDINGS
via Lexology by Kathleen Lu & Jennifer Stanley on 8/18/2016

In Capital Records v. Vimeo, the Second Circuit Court of Appeals issued an important decision on the Digital Millennium Copyright Act § 512 safe ...

FILE HOSTING SERVICE UPLOADED LOSES LEGAL COPYRIGHT BATTLE
via Telecompaper on 8/19/2016

German performing rights organisation Gema has won a legal battle against file hosting service Uploaded. The ruling confirmed that a file hosting site ...

PUBLIC "SELECTIVE" KNOWLEDGE
via Medium by Steve Tepp on 8/11/16
URL: https://medium.com/@steve_1343/public-selective-knowledge-6c45bbe0e5fb

Disagreement on law and policy in the field of copyright have become routine.

THE INTERNET'S SAFE HARBOR DID NOT JUST BECOME A LITTLE LESS SAFE
via Medium by Franklin Graves on 8/17/16
URL: https://medium.com/@franklingraves/the-internets-safe-harbor-did-not-just-become-a-little-less-safe-feab30b3dc7a

The internet's safe harbor did not just become a little less safe and I argue that it's a far cry to conclude that Judge O'Grady's recent decision will have an extreme impact on small internet service providers.
COX TAKES DMCA SAFE HARBOR BATTLE TO 4TH CIRC.
via Intellectual Property Law360 by Bill Donahue on 8/19/2016
URL: http://www.law360.com/ip/articles/830428

Cox Communications launched an appeal Thursday at the Fourth Circuit in a closely watched case over whether the broadband provider forfeited the immunity of the Digital Millennium Copyright Act by not blocking music piracy by its subscribers.

DOLLY PARTON DEFENDS ED SHEERAN, LED ZEPPELIN AND OTHERS ACCUSED OF THEFT
via BBC by Mark Savage on 8/19/2016

Ed Sheeran is currently fighting two copyright cases, over the songs Photograph and Thinking Out Loud; while Led Zeppelin recently won a case ...

TOP 3 COOL LEGAL JOBS THIS WEEK: COPYRIGHT AND TRADEMARK
via FindLaw Writ - Recent Articles by Jonathan R. Tung, Esq. on 8/19/2016

Maybe you're in that group of attorneys who always wanted to practice patent law, but couldn't because you were hampered by not having earned a B.S. in your undergrad years. And the thought of having to go back to school to earn enough science credits just so you can sit......

ANTI-GOOGLE RESEARCH GROUP IN WASHINGTON IS FUNDED BY ORACLE
via Ars Technica by Joe Mullin on 8/19/2016
URL: http://arstechnica.com/tech-policy/2016/08/anti-google-research-group-in-washington-is-funded-by-oracle/

The Google Transparency Project is a Washington, DC group that's laser-focused on letting Americans know about Google's lobbying efforts.

UNAUTHORIZED, MISLABELED MICROSOFT SUPPORT TOOL LEAKS; COULD CAUSE MORE TROUBLE THAN IT CURES
via ZDNet by Ed Bott on 8/19/2016
URL: http://www.zdnet.com/article/unauthorized-mislabeled-microsoft-support-tool-leaks-could-cause-more-trouble-than-it-cures/

The copyright notice gives this tool's Nokia origins away. That's the former Nokia division, which has been almost completely dismantled at this point.
DON'T BLAME ARS TECHNICA FOR THE INEVITABILITY OF AN ORACLE V. GOOGLE ANDROID-JAVA COPYRIGHT RE-RETRIAL
via FOSS Patents by Florian Mueller on 8/21/2016

It ain't over till it's over, and Oracle v. Google is very far from over.

COPYRIGHT ESSENTIAL TO FUTURE PROSPERITY
via Financial Review by Adele Ferguson on 8/21/2016

Kim Williams, the chairman of the Copyright Agency, in a powerful speech titled "Fighting for Copyright" last week, said: "Protecting copyright is ...

VISITING 'BLOCKED' URL OF TORRENTS IN INDIA CAN LAND YOU IN JAIL FOR 3 YEARS
via Khallej Times on 8/21/2016
URL: http://www.khaleejtimes.com/international/india/visiting-blocked-url-of-torrents-can-land-you-in-jail-for-3-years

... torrents and facilitate illegal streaming of copyrighted television series, movies and misusing pay-TV platform OSN's intellectual property rights.

HAPPY BIRTHDAY' LAWYERS NET $4M IN ATTORNEYS' FEES
via World IP Review on 8/21/2016

The lawyers who succeeded in bringing "Happy Birthday to You" into the public domain following a copyright dispute over the lyrics have been ...

RUN-DMC COPYRIGHT RULING PARTIALLY REVERSED BY US APPEALS COURT
via World IP Review on 8/22/2016

A copyright lawsuit between a photographer and merchandise company Live Nation, which surrounds pictures of hip-hop band Run-DMC, has been ...
DEMI LOVATO FACES COPYRIGHT LAWSUIT FROM INDIE STARS SLEIGH BELLS
via Hollywood Reporter - THR, Esq. by Eriq Gardner on 8/22/2016
URL: http://www.hollywoodreporter.com/thr-esq/demi-lovato-faces-copyright-lawsuit-921588

Lovato's producers previously denied a sampling, but a complaint filed on Monday asserts that similarities "transcend the realm of coincidence."

DEMI LOVATO FACES COPYRIGHT SUIT LODGED BY INDIE BAND
URL: http://www.law360.com/ip/articles/831246

New York City-based indie rock duo Sleigh Bells filed a copyright infringement suit against Demi Lovato alleging the pop singer's 2015 song "Stars" improperly samples their 2010 song "Infinity Guitars," according to a suit filed Monday in California federal court.

COX COMMUNICATIONS APPEALS $25 MILLION PIRACY VERDICT
via MediaPost by Wendy Davis on 8/22/2016

The battle between Cox and BMG dates to 2014, when BMG sued Cox for infringing copyright and for contributing to infringement by users.

FCC APPEARS TO PIVOT ON SET-TOP BOX PLAN
via Bloomberg BNA by Kyle Daly on 8/22/2016
URL: http://www.bna.com/fcc-appears-pivot-n7301444659/

Lawmakers, the cable industry and the copyright community have hammered the FCC on the plan, saying it could undercut copyright by circumventing ...

CALIFORNIA COMPANY ALLEGES COPYRIGHT INFRINGEMENT OVER ITS DESIGNS BY ACTIVE USA, RAGDOLLS COUTURE
via Northern California Record by Wadi Reformado on 8/22/2016

According to the complaint, the plaintiff alleges that Star Fabrics Inc. suffered damages to its business from the infringement of the copyrighted designs.
Earlier this month, Rolling Stone published an article by Steve Knopper called Inside YouTube's War With the Music Industry. I would characterize the article as more of a glimpse than an inside view; but setting that aside, the article contained ...

The music publisher that sued Madonna for sampling a split-second horn riff in her 1990 hit "Vogue" is back in district court, leaning heavily on the Supreme Court's recent Kirtsaeng ruling and looking to avoid paying the pop stars legal fees after a high-profile loss at the Ninth Circuit.

A copyright lobbying group rallied Tuesday in vigorous defense of the U.S. Copyright Office's recent warning to Congress that the Federal Communications Commission's plan to unlock TV set-top boxes risks undermining the ability of copyright holders to control their creations, disputing positions of consumer advocacy groups that the Copyright Office doesn't have the public interest at heart.

Pharrell Williams and Robin Thicke on Tuesday launched their long-awaited bid to overturn a verdict that their smash hit "Blurred Lines" infringed an iconic Marvin Gaye song, warning the Ninth Circuit that the headline-grabbing decision would "chill musical creativity."

Pharrell Williams, Robin Thicke and T.I. file their opening brief at the 9th Circuit.
DESPITE WHAT YOU HEAR, NOTICE AND TAKEDOWN IS FAILING CREATORS AND COPYRIGHT OWNERS
via Mister Copyright by Kevin Madigan on 8/24/2016

In a recent op-ed in the LA Times, Professors Chris Sprigman and Mark Lemley praise the notice and takedown provisions of the Digital Millennium Copyright Act (DMCA) as "a bit of copyright law worth saving."

3RD CIRC. BACKS BIGGER DAMAGES FOR INFRINGEMENT OF RARE PICS
via Intellectual Property Law360 by Pete Brush on 8/24/2016
URL: http://www.law360.com/ip/articles/832233

The Third Circuit on Wednesday upheld a $1.6 million copyright damages verdict in favor of photographer Andrew P. Leonard, crediting a damages expert's contention that his rare images of stem cells, which were widely replicated without permission by defendant Stemtech International Inc., were worth more than regular photos.

JUDGE DISMISSES COPYRIGHT FIGHT OVER BEATLES DOCUMENTARY
via Intellectual Property Law360 by Eric Kroh on 8/24/2016
URL: http://www.law360.com/ip/articles/832136

A New York federal judge on Tuesday dismissed a lawsuit accusing Sony/ATV Music Publishing and The Beatles' Apple Corp. of unlawfully asserting copyright claims to block a documentary about the Fab Four, after a U.K. court ruled that the film improperly used copyrighted songs.

PHARRELL, ROBIN THICKE AIM TO OVERTURN COPYRIGHT INFRINGEMENT VERDICT FOR 'BLURRED LINES'
via Law.com - Newswire by Amanda Bronstad on 8/24/2016

Pointing to what they call a "cascade of legal errors," Pharrell Williams and Robin Thicke have asked a federal appeals court to overturn last year's verdict finding that their 2013 smash hit "Blurred Lines" had infringed on a copyright for Marvin Gaye's "Got To Give It Up."
Recent reports about the change in copyright infringement warnings on various websites have triggered anxiety among many Internet users in India.

ARIANA GRANDE, APPLE FACE SONGWRITER'S COPYRIGHT SUIT
URL: http://www.law360.com/ip/articles/832000

A Canadian music producer and songwriter filed a copyright infringement suit against Ariana Grande, Apple Inc. and others alleging the pop singer's hit 2014 song, "One Last Time," rips off a song he penned in 2012, according to a suit filed Tuesday in California federal court.

CISCO, ARISTA BOTH DENIED IP WIN IN NETWORK PATENT SUIT
URL: http://www.law360.com/ip/articles/832292

Cisco Systems Inc. couldn't secure a quick win against competitor Arista Networks Inc. over its copyright claims involving computer network technologies after a California federal judge said Tuesday there are disputed issues of material fact over the originality of and Cisco's ownership in the disputed interface.

COUNTRY SINGER WINS ATTY FEES FROM LABEL IN COPYRIGHT SUIT
via Intellectual Property Law360 by Melissa Daniels on 8/24/2016
URL: http://www.law360.com/ip/articles/832486

A Texas federal judge on Wednesday ordered a record label to pay a little more than $15,000 in attorneys' fees to a country singer whom it sued over copyright infringement, saying the award is merited given the "baseless" nature of the suit.

HANS ZIMMER SCORES WIN IN '12 YEARS A SLAVE' COPYRIGHT LAWSUIT
via Hollywood Reporter - THR, Esq. by Ashley Cullins on 8/25/2016
URL: http://www.hollywoodreporter.com/thr-esq/hans-zimmer-scores-win-12-922850

The legendary composer was accused of copying commercial library music for 'Solomon.'
ABA Copyright Division
http://apps.americanbar.org/dch/committee.cfm?com=PT030000

A FACELIFT FOR IP-LICENSING ANTITRUST GUIDELINES
URL: http://www.law360.com/ip/articles/832276

The Federal Trade Commission and the U.S. Department of Justice recently announced that they are seeking public views on a set of proposed updates to the 1995 Antitrust Guidelines for the Licensing of Intellectual Property. The proposed guidelines may be most interesting for what they do not change, say attorneys with Vinson & Elkins LLP.

HANS ZIMMER BEATS '12 YEARS A SLAVE' COPYRIGHT SUIT
via Intellectual Property Law360 by Bill Donahue on 8/25/2016
URL: http://www.law360.com/ip/articles/832820

A little-known composer has apologized for bringing a lawsuit that claimed Hollywood soundtrack heavyweight Hans Zimmer lifted key parts of the score to "12 Years A Slave" from an earlier work, saying the suit was "misguided and mistaken."

ORACLE PUSHING HARD FOR ANDROID-JAVA RE-RETRIAL WHILE GOOGLE FAILS TO JUSTIFY ITS LIES TO THE JURY
via FOSS Patents by Florian Mueller on 8/25/2016

In litigation, the devil is often in the detail, but not always. Sometimes there are overarching issues that decide a dispute and the legal detail is simply worked out in order to reach the only result that any remotely reasonable person could consider correct.

GOOGLE, ORACLE TRADE SHOTS OVER ANDROID EXPANSION PLANS
via Intellectual Property Law360 by Cara Salvatore on 8/25/2016
URL: http://www.law360.com/ip/articles/832932

Oracle wants a retrial in a massive IP row after a jury found that the use of building blocks of Oracle's Java in Google's Android operating system was fair, accusing Google Thursday of defrauding the court by insisting Android only ran on smartphones, while Google said it was known all along that Android was going to expand to other devices.
BRAD PAISLEY, CARRIE UNDERWOOD BEAT SONG COPYRIGHT SUIT
via Intellectual Property Law360 by Melissa Daniels on 8/25/2016
URL: http://www.law360.com/ip/articles/833026

A Tennessee federal judge on Thursday tossed a copyright infringement suit against singers Brad Paisley and Carrie Underwood over their song "Remind Me," saying the 2011 chart-topper doesn't steal a hook from a songwriter.

BEYONCE TRAILER IS 'SIMPLY NOT SIMILAR' TO FILM, RAKOFF HEARS
URL: http://www.law360.com/ip/articles/833096

Beyonce's 65-second trailer for her visual album "Lemonade" is "simply not similar" to the seven-minute short film "Palinoia," whose maker accused the chanteuse of copyright infringement, U.S. District Judge Jed Rakoff heard Thursday.

ED SHEERAN TARGETED BY HEIRS OF 'LET'S GET IT ON' CO-WRITER IN COPYRIGHT INFRINGEMENT SUIT
URL: http://www.ipwatchdog.com/2016/08/26/ed-sheeran-copyright-infringement/id=72116/

On Tuesday, August 9th, Ed Sheeran was named as a defendant in a copyright lawsuit filed by three heirs of American singer-songwriter Lee Townsend. Townsend, who passed away in 2003, was Marvin Gaye's co-writer for his famous song "Let's Get It On." The suit, which also lists among the defendants Warner Music Group, Atlantic Records UK, Sony/ATV Music Publishing and Amy Wadge, Sheeran's co-writer on "Thinking Out Loud," alleges that the song "copied the heart" of "Let's Get It On" and repeated...

MOTION PICTURE UNIONS OPPOSED TO FCC SET-TOP PROPOSALS
via The Illusion of More by David Newhoff on 8/26/2016

As noted several times on this blog, it takes a lot of highly skilled people to make a film or TV show, and these people generally do not own any copyright interest in the works they help make or any...
PHOTOGRAPHER SEEKS $1B FROM GETTY IN COPYRIGHT VIOLATION LAWSUIT
via Law.com - Newswire by Larry Neumeister on 8/26/2016

An accomplished photographer who lets the public use thousands of her images of America for free has sued the Getty Images photo agency for more than $1 billion, saying it is improperly selling her work to customers and threatening those who don't pay.

CISCO V. ARISTA IP BATTLE STARTS TO LOOK A LOT LIKE ORACLE V. GOOGLE
via Law.com - Newswire by Scott Graham on 8/26/2016

Judge Beth Labson Freeman rejected Cisco's motion for summary judgment, setting up a clash over copyrightability and fair use.

RICHARD PRINCE FACES FOURTH LAWSUIT OVER COPYRIGHT INFRINGEMENT
via Artforum on 8/26/2016
URL: http://artforum.com/news/id=63151

 Appropriation artist Richard Prince is being sued for copyright infringement for the fourth time, Julia Halperin of the Art Newspaper reports.

DOJ WIDENS KICKASSTORRENTS PROBE, CHARGES THREE UKRAINIANS IN GLOBAL COPYRIGHT-INFRINGEMENT CASE
via Washington Times by Andrew Blake on 8/26/2016

In this Feb. 27, 2013, file photo illustration, hands type on a computer keyboard in Los Angeles.

CARRIE UNDERWOOD, BRAD PAISLEY WIN COPYRIGHT INFRINGEMENT CASE
via Rolling Stone on 8/26/2016

Finell famously testified on behalf of Marvin Gaye's family in the copyright infringement case against Pharrell and Robin Thicke's "Blurred Lines."
PACHAMUTHU'S SONS GET RELIEF IN COPYRIGHT ROW ON THE SAME DAY OF HIS ARREST
via The New Indian Express on 8/26/2016
URL: http://www.newindianexpress.com/cities/chennai/Pachamuthus-sons-get-relief-in-copyright-row-on-the-same-day-of-his-arrest/2016/08/27/article3599248.ece

On a day when the SRM Group chairman Pachamuthu was arrested in a cheating case, the Madras High Court gave relief to his two sons ...

PHOTOGRAPHER BLASTS PETA'S APPEAL IN "MONKEY SELFIE" LAWSUIT
via Hollywood Reporter - THR, Esq. by Ashley Cullins on 8/26/2016
URL: http://www.hollywoodreporter.com/thr-esq/monkey-selfie-photographer-blasts-petas-923074

The attorney for David Slater says the copyright fight over the infamous "monkey selfie" is poised to earn back-to-back titles as the year's most ridiculous lawsuit.

Megaupload founder Kim Dotcom would not get a fair trial in the "unfair playing ground" of the U.S. where he faces copyright infringement and ...

PUBLISHERS APPEAL GSU COPYRIGHT CASE
via Publishers Weekly by Andrew Albanese on 8/29/2016

Following their second district court loss in eight years of litigation, the publisher plaintiffs in Cambridge University Press vs. Patton (known commonly ...
THIRD CIRCUIT UPHOLDS $1.6M IN DAMAGES FOR STEM CELL PHOTOGRAPHER
via Law.com - Newswire by Tom McParland on 8/29/2016

The U.S. Court of Appeals for the Third Circuit has upheld a $1.6 million damages verdict and opened a door to additional recovery for a stem cell photographer who was not paid for a company's widespread use of his rare and valuable images.

BLOCKING OFFSHORE PIRATE WEBSITES: IT CAN BE BOTH EFFECTIVE AND MANAGEABLE
via Hugh Stephens Blog on 8/29/2016
URL: http://hughstephensblog.net/2016/08/29/blocking-offshore-pirate-websites-it-can-be-both-effective-and-manageable

A recently released study by Carnegie Mellon University (CMU) examines the effectiveness of internet site blocking to control copyright piracy in the UK, and comes to some interesting conclusions.

FOREVER 21 SUES ANOTHER RETAILER FOR COPYING
via The Fashion Law on 8/29/2016
URL: http://www.thefashionlaw.com/home/forever-21-sues-another-retailer-for-copying

The copyright registration at issue, which covers the design of a "Visual ... exclusive right to use the copyrighted design, a red-based medallion print.

COX CAN'T HALT FEE FIGHT IN USER PIRACY SUIT, BMG SAYS
URL: http://www.law360.com/ip/articles/833502

Cox Communications has no basis to pause costs and fees consideration while it appeals a case over whether it forfeited the immunity of the Digital Millennium Copyright Act by not blocking music piracy by its subscribers, music publisher BMG Rights Management told a Virginia federal court Friday.
GRUMPY CAT'S OWNERS TAKING COFFEE MAKER TO COURT OVER COPYRIGHT INFRINGEMENTS
via NZHerlad by Matthew Dunn on 8/29/2016

The company ignored requests, so Grumpy Cat's owners are now asking a California federal court for $828,040 in damages. The internet loves a good ...

WIPR SURVEY: 'DANCING BABY' CASE FAILS TO GET IT RIGHT
via World IP Review on 8/29/2016

The long-running 'dancing baby' copyright saga does not achieve the right balance between copyright and fair use, according to the majority of ...

THE NEXT FIGHT BETWEEN MEGAUPLOAD AND THE US WILL BE LIVESTREAMED
via Ars Technica by Joe Mullin on 8/30/2016

The battle between the US and Kim Dotcom over whether he should face criminal copyright charges is coming to a screen near you.

"BLURRED LINES" APPEAL GETS SUPPORT FROM MORE THAN 200 MUSICIANS
via Hollywood Reporter - THR, Esq. by Eriq Gardner on 8/30/2016
URL: http://www.hollywoodreporter.com/thr-esq/blurred-lines-appeal-gets-support-924213

An eclectic group of artists from R. Kelly to Hans Zimmer tell the 9th Circuit that the verdict, if allowed to stand, "is very dangerous to the music community."

KIM DOTCOM EXTRADITION FIGHT WILL STREAM ONLINE FROM NZ
via Intellectual Property Law360 by Pete Brush on 8/30/2016
URL: http://www.law360.com/ip/articles/834504

After initially denying Kim Dotcom's request to livestream a high-profile hearing over whether the Megaupload Ltd. founder and three other defendants can be brought to the United States for a criminal trial, a New Zealand judge granted the request Tuesday with some restrictions, according to a newspaper report.
Prince will always be remembered for doing things his own way, building a legacy as one of the most dynamic performers and prolific musicians in recent memory.

More than 200 musical artists urged the Ninth Circuit on Tuesday to toss out a jury verdict that Pharrell Williams and Robin Thicke infringed an iconic Marvin Gaye song with their hit "Blurred Lines," calling it "very dangerous to the music community."

Just because the surgeon general serves at the pleasure of the president, that doesn't mean we think the president is, therefore, the more qualified expert in medicine. We want a president to have views on domestic healthcare in general but ...

Additionally, while the German ancillary copyright law only applied to search engines and news aggregators, the draft EU proposal would also forbid ...

Well, put simply, copyright law is not necessarily a friend to fashion in the United States. This is a blanket statement, of course, but it bears quite a bit of ...
A group of more than 200 prominent musicians are urging a federal appeals court to throw out the copyright infringement verdict against "Blurred Lines," warning that the future of artistic creativity is at stake.

ESPN was hit with a copyright infringement and breach-of-contract suit in Mississippi federal court Wednesday accusing the sports broadcasting giant and others of reneging on a deal to use footage from a 2004 documentary about a college football player in ESPN's own 2014 version.

The latest leak of the EU's proposed changes to copyright law has revealed that the so-called 'link right' could last for much longer than previously ...
September 2016

MANNERS MAKETH THE COPYRIGHT INFRINGER - COURT AWARDS $60000 'ADDITIONAL DAMAGES' FOR ...
via Lexology by Timothy Gorton on 9/1/2016
URL: http://www.lexology.com/library/detail.aspx?g=b089b159-be89-49c3-b9a4-f3d94bfd41fd

In August last year, this blog discussed the Queensland Supreme Court decision of Coles v Dormer. That case involved copyright infringement of ...

SCORES OF MUSICIANS LEND VOICES TO 'BLURRED LINES' APPEAL
via Law.com - Newswire by Amanda Bronstad on 9/1/2016
URL: http://www.law.com/sites/articles/2016/08/31/scores-of-musicians-lend-voices-to-blurred-lines-appeal/

A group of more than 200 musicians, composers and other artists on Wednesday supported the attempts of Pharrell Williams and Robin Thicke to overturn a multimillion-dollar copyright infringement verdict related to the hit song "Blurred Lines."

BEYONCE SLAYS 'LEMONADE' LAWSUIT
via Hollywood Reporter - THR, Esq. by Ashley Cullins on 9/1/2016
URL: http://www.hollywoodreporter.com/thr-esq/beyonce-slays-lemonade-lawsuit-925024

The artist's award-winning visual album didn't copy an indie short film, a New York federal judge has ruled.

THE LINE-UP OF MUSIC ACTS SUPPORTING THE "BLURRED LINES" PLAGIARISM APPEAL WOULD MAKE FOR A GREAT ...
via Quartz by Amy X. Wang on 9/1/2016

If a song's general vibe or feel is subject to copyright, the creators say, then any songwriter who draws any sort of inspiration from previous works of ...
THE MONKEY SELFIE IS BACK!
via The Washington Post by David Post on 9/1/2016

to the more abstract: Copyright's fundamental rationale is that bestowing protection on works is a means of providing "authors" with an incentive that ...

HOLLYWOOD STUDIOS, FOOTBALL LEAGUES URGE EU RETHINK ON COPYRIGHT
via Reuters by Julia Fioretti on 9/1/2016
URL: http://www.reuters.com/article/us-eu-copyright-idUSKCN1175WH

Hollywood studios, football leagues urge EU rethink on copyright ... have urged the European Union to reconsider a planned copyright overhaul they ...

RAKOFF BOOTS 'LEMONADE' TRAILER SUIT AGAINST BEYONCE
via Intellectual Property Law360 by Bill Donahue on 9/1/2016
URL: http://www.law360.com/ip/articles/835547

U.S. District Judge Jed Rakoff on Wednesday booted a copyright infringement lawsuit claiming a trailer for Beyonce's smash hit "Lemonade" special on HBO lifted key elements from a little-known short film.

MARK ROSE: THE AUTHORS AND THEIR PERSONALITIES THAT SHAPED COPYRIGHT LAW
via Written Description by Shyamkrishna Balganesh on 9/1/2016
URL: http://writtendescription.blogspot.com/2016/09/mark-rose-authors-and-their.html

"Great cases like hard cases make bad law" said Justice Holmes at the turn of the twentieth century. By contrast in copyright law, complex personalities and facts seem to allow the law to work itself pure.

FILMON CAN'T USE COMPULSORY COPYRIGHT LICENSE, DC CIRC TOLD
via Intellectual Property Law360 by Natalie Olivo on 9/1/2016
URL: http://www.law360.com/ip/articles/835632

A group of television networks asked the D.C. Circuit on Wednesday to uphold a district court's ruling finding that streaming services like FilmOn X don't qualify for a compulsory license to stream copyrighted content, arguing that FilmOn is simply any infringer under the Copyright Act.
PROPOSED UPDATE OF THE ANTITRUST GUIDELINES FOR LICENSING INTELLECTUAL PROPERTY: FTC AND DOJ SEEK PUBLIC COMMENT
via Types Of Law by Lauren N. McComis on 9/1/2016

On August 12, 2016, the Federal Trade Commission and the Department of Justice's Antitrust Division (the Agencies) invited interested parties to comment on the Proposed Update of the Antitrust Guidelines for Licensing Intellectual Property (IP Licensing Guidelines). The Agencies are accepting public comments until September 26, 2016.

RECORD COS. FIGHT BID FOR CHUNK OF $210M SIRIUSXM DEAL
URL: http://www.law360.com/ip/articles/835332

The five major record labels sought permission Wednesday in California federal court to oppose a bid for attorney's fees from their $210 million settlement with SiriusXM Radio, arguing class counsel for owners of pre-1972 songs have no claim to the cash.

GANNETT RESOLVES IP SUIT OVER LOBSTER-CATCHING DOG VIDEO
URL: http://www.law360.com/ip/articles/835732

Gannett has settled a copyright infringement suit accusing the media company of unlawfully posting a Florida jewelry company's video of a dog diving into the ocean and catching a lobster, according to documents filed Thursday in New York federal court.

INDUSTRY PROPOSALS CONTRARY TO SPIRIT OF MARRAKESH TREATY, LIBRARIES SAY
via Intellectual Property Watch by Alexandra Nightingale on 9/2/2016

An international group of librarians has warned that rights holder organisations in some countries are promoting provisions that restrict and impede the access envisaged by the Marrakesh Treaty providing exceptions to copyrighted works for visually impaired persons.
Then on Wednesday, a first draft of the new Copyright Directive became public. It deals with, among other points, new and mandatory limitations to ...

Online game distributor Game Jolt has removed over 500 fan games from its public pages after it says it received a DMCA request from Nintendo, highlighting a more-focused crackdown on such games from the 3DS and Wii U maker.

A New York appeals court has dismissed claims by Lindsay Lohan and Karen Gravano, a star of the former reality TV show "Mob Wives," that their likenesses were misappropriated by developers and publishers of the video game "Grand Theft Auto V."

Fox News Network LLC slammed television search engine TVEyes Inc.'s contention that its media-monitoring service is legal under the fair use doctrine as a research tool, telling the Second Circuit on Wednesday that TVEyes had conceded the service's commercial use.

The Ninth Circuit on Friday tossed a copyright infringement suit alleging Universal Music Group and pop star Jessie J ripped off a California indie musician's song for their 2011 hit "Domino," backing a lower court's determination that the defendants didn't have access to the song.
GETTY SEEKS ARBITRATION FOR SPORTS PHOTOGS' COPYRIGHT SUIT
via Intellectual Property Law360 by Joyce Hanson on 9/2/2016
URL: http://www.law360.com/ip/articles/835991

Getty Images made a bid Thursday to dismiss two sports photographers' copyright infringement suit in Wisconsin federal court that charges the licensing company with involvement in a "massive counterfeiting scheme," saying the suit should be tossed in favor of arbitration.

DESIGN PATENTS AND COPYRIGHTS FOR DESIGNS ON USEFUL ARTICLES
URL: http://www.natlawreview.com/article/design-patents-and-copyrights-designs-useful-articles

Two recent cases illustrate the potential benefits of protecting intellectual property rights with both design patents and copyrights, particularly for an ...

SONY, LATIN MUSIC STAR HIT WITH COPYRIGHT, CONTRACT SUIT
URL: http://www.law360.com/ip/articles/835984

Latin Grammy Award-winner Luny and a Puerto Rico-based music production company have filed a multicontract, multimillion-dollar federal lawsuit against Sony Music Entertainment and fellow Reggaeton musician Yandel for alleged copyright infringement and breach of several working agreements.

UNIVERSITY OF AUCKLAND: SPORTS STARS MAY FACE LAWSUITS OVER TATTOOS
via NZHerald on 9/4/2016

Tattoo company Solid Oak Sketches alleges the game makers violated the copyrights of its artists by replicating the real-life tattoos of American ...
VII. JOurnal of the CopyRight Society of the USA

Vol. 63, No. 2 (Spring 2016)

Art Resale Royalty Options
by Herbert I. Lazerow

A federal resale royalty law that would require payments from the reseller of art to an artist when her work is resold is under consideration. This article analyzes provisions that might be contained in such a law with comparisons to Australia, England, France and California.

The Impact of Specific Exceptions on Fair Use: An Update
by Jonathan Band

In 2012, I published a law review article where I argued that when a defendant engages in the type of activity permitted by a specific exception under the Copyright Act, but does not qualify for a technical reason, the court should give weight to the defendant's substantial compliance with the exception when considering the first fair use factor (the purpose and character of the use). In adopting a specific exception, Congress recognized the strong public policy interest in permitting the use in cases meeting the exception's requirements. Significantly, the same public policy interest still exists in cases where many, but not all, of the exceptions' requirements are met. While the existence of a specific exception should not be dispositive of the fair use analysis, I argued that it should have a positive influence on the first fair use factor. Since then, both the Second Circuit and the Register of Copyrights have given substantial weight to specific exceptions in the context of consideration of the first fair use factor.

Justifications, Foci, and Impact Factors of Anti-Piracy Enforcement in China
by Haiyan Liu

This article analyzes the various contextual and industry-level technological, economic, and political factors contributing to rampant piracy in China and the unexpected consequences and obstacles for implementing the copyright laws transplanted into China. The institutional and bureaucratic obstacles to tackling piracy for copyright administrative agencies include a lack of institutional capacity, multiple responsibilities without copyright enforcement as the priority, conflicts among agency responsibilities, and duplicate enforcement accountability of various agencies. Meanwhile, an increasing number of copyright holders have found it more useful to seek civil remedies in court.
TECHNOLOGICAL NEUTRALITY AS A MAJOR FACTOR IN THE VALUATION OF COLLECTIVE RIGHTS UNDER CANADIAN LAW
by Andrea Rush & Brian Lau

When multiple rights are simultaneously engaged by a user, the exercise of each right typically requires a copyright license. In the public interest, valuation of rights which are administered on a collective basis entails consideration of "technological neutrality." A precedential decision rendered by the Supreme Court of Canada, Canadian Broadcasting Corp. v. SODRAC 2003, Inc., (CBC V. SODRAC) clarifies that, absent parliamentary intent to the contrary, the Canadian Copyright Act should not be interpreted or applied to favor or discriminate against any particular form of technology. Markers are articulated for assessing technological neutrality, which include the user's contribution to the technology. The majority decision of the Court explains how jurisdiction is shared between the courts and the Copyright Board. The Copyright Board proceedings allocate a value for the rights to be administered on a collective basis. Ultimately, each user may choose whether or not to secure a license, and the effect of the user's choice may or may not lead to infringement proceedings.

FIRST SALE RIGHTS AT SCOTUS: REGARDING KIRTSANG V. JOHN WILEY & SONS
by Michael Einhorn, Ph.D.

In the case of Kirtsaeng v. John Wiley & Sons, Inc., the U.S. Supreme Court in 2013 heard a matter involving the conflict of importation rights now controlled by a book publisher (John Wiley) and first sale rights of one of its purchasers, Sudip Kirtsaeng. Kirtsaeng was a graduate student studying in the U.S. who opened up a small business importing low cost textbooks from his native Thailand and reselling them at much higher prices in the U.S. Wiley contended that Kirtsaeng's distributions of the book were subject to its exclusive importation rights and not subject to the first sale doctrine that presumably applied only to domestic productions. In a hotly contested decision, the Supreme Court reversed the Second Circuit to hold that the first sale doctrine extended to distributions of copies of copyrighted works originally and lawfully produced outside of U.S. borders. The Court here extended its earlier ruling in Quality King Distributors Inc., v. Lanza Research International, Inc., and so eviscerated the publisher's distribution right in relation to the resale of any imported book.

CHARLES DICKENS AND THE INTERNATIONAL COPYRIGHT LAW
by Thomas Hoeren

A new era of International Copyright Law started when the United States of America joined the Revised Berne Convention (RBC) in 1988, which established that the protection of creative achievements should no longer depend on legal formalities. Instead, every author in the U.S. was able to enjoy a minimum protection of his, her or its rights, regardless of the author's nationality or compliance with copyright formalities. At that time, nobody could foresee that Charles Dickens, a preeminent English author, was finally granted his rights posthumously.
VIII. COPYRIGHT LAW JOURNAL ARTICLES

January 2016

ART AND INDIAN COPYRIGHT LAW: A STATUTORY READING
by Nandita Saikia on 2/17/15
URL: http://ssrn.com/abstract=2625845

A look at how the Indian Copyright Act, 1957, as amended in 2012, interacts with art (other than films and sound recordings), and, in particular, with Indian art. The first part of this text comprises a feminist and post-colonial reading of the Indian copyright statute while later parts focus on interpreting the provisions of the statute in relation to art.

ECONOMIC ANALYSIS OF COPYRIGHT NOTICE: TRACING AND SCOPE IN THE DIGITAL AGE
in Boston University Law Review by Peter S. Menell on 1/4/16
URL: http://ssrn.com/abstract=2710904

Notice of preexisting rights plays a critical role in resource planning. This article focuses on the history, role, institutions, costs, and efficacy of notice within the domain of expressive creativity. It distinguishes between two sets of copyright notice challenges: tracing of copyright ownership and assessing the scope of copyright protection. Tracing issues – linking copyrighted works to subsistence information about the works and contact information about their owners – are largely solvable through implementation of existing and developing technological means (such digital content recognition), international standardization, and reform of obsolete legal rules, most notably Berne Convention limits on formalities. The inherent uncertainty surrounding copyright scope, however, stands in the way of copyright notice nirvana – a transparent database of fully specified copyright resources and reliable tools for determining liability exposure ex ante. Unlike tracing of subsistence and ownership information, current or foreseeable technology alone cannot solve the problem of forewarning the public of the precise boundaries of copyright interests. Nonetheless, other notice-failure based adjustments to the copyright system can ameliorate scope clarity concerns. Such reforms would enhance copyright notice, ensure copyright protection, and promote cumulative creativity.

THE LAW OF BANKSY: WHO OWNS STREET ART?
in University of Chicago Law Review by Peter N. Salib on 1/6/16
URL: http://ssrn.com/abstract=2711789

Street Art -- generally, art that is produced on private property not owned by the artist and without permission--has entered the mainstream. Works by such artists as Banksy, Jean-Michel Basquiat, and Shepard Fairey now sell at the world's most prestigious auction houses, fetching
prices in the millions. Strangely, however, the law governing street art ownership is entirely undeveloped. The circumstances of street art's creation--often involving artists' clandestine application of their work to the sides of buildings owned by others--render traditional legal paradigms governing ownership intractable. If Banksy paints a valuable mural on the side of my house, who owns it? Me? Banksy? Someone else? American law is currently ill-equipped to answer the question.

This article rigorously investigates the problem of street art ownership. It accounts for the unusual circumstances of street art creation and distribution. It then considers the possible legal regimes for governing street art ownership and comes to a surprising recommendation.

THREE NOTICE FAILURES IN COPYRIGHT LAW
in Boston University Law Review by Annmarie Bridy on 1/3/16
URL: http://ssrn.com/abstract=2710341

In Notice Failure and Notice Externalities, Peter Menell and Michael Meurer explore how notice failures resulting from the fuzzy boundaries of intellectual property entitlements produce negative externalities for developers of new resources, particularly in the information technology sector, where the problem of uncertain patent scope is widely recognized. This article takes a different tack on notice failures and their costs. Shifting focus from resource development to rights enforcement, specifically online anti-piracy enforcement, it considers the nature, effects, and means of correcting three instances of notice failure in copyright law. The first two instances—“red flag” knowledge under the Digital Millennium Copyright Act (DMCA) and ex parte domain name seizures under the Prioritizing Resources and Organization for Intellectual Property (PRO-IP) Act—involve a legislative failure to appreciate that notice is necessary for the production of predictable and fair legal outcomes. The third instance of notice failure—injunctions against nonparty online intermediaries in civil “pirate site” cases—involves a judicial failure to appreciate that notice alone does not give courts jurisdiction over strangers to the litigation before them. Each of these notice failures is associated with a different aspect of copyright enforcement in the digital environment. All of them raise operating costs and increase legal risk for a wide range of online intermediaries, including search engines, cloud storage services, social media platforms, domain name registrars, payment processors, ad networks, and content delivery networks (CDNs).

IP LITIGATION IN UNITED STATES DISTRICT COURTS - 2015 UPDATE
by Matthew Sag on 1/5/16
URL: http://ssrn.com/abstract=2711326

In a previous paper, "IP Litigation in United States District Courts: 1994 to 2014", I undertook a broad-based empirical review of Intellectual Property litigation in U.S. federal district courts from 1994 to 2014. This brief update extends that data to include the year 2015.
This update contains new data on: (1) the overall state of copyright, patent and trademark litigation, (2) copyright litigation and the John Doe phenomenon, (3) the continuation of the patent litigation explosion and (4) the geographic distribution of copyright, patent and trademark litigation. This Update is not intended as a stand-alone article, it should be read in conjunction with the previous paper.

February 2016

REVISION: HOW COPYRIGHT DRIVES INNOVATION: A CASE STUDY OF SCHOLARLY PUBLISHING IN THE DIGITAL WORLD
URL: http://www.ssrn.com/abstract=2243264

Today, copyright policy is framed solely in terms of a trade off between the benefits of incentivizing authors to create new works and the losses from restricting access to those works. This is a mistake that has distorted the policy and legal debates concerning the fundamental role of copyright within scholarly publishing, as the incentive-to-create conventional wisdom asserts that copyright is unnecessary for researchers who are motivated for non-pecuniary reasons. As a result, commentators and legal decision-makers dismiss the substantial investments and productive labors of scholarly publishers as irrelevant to copyright policy. Furthermore, widespread misinformation about the allegedly "zero cost" of digital publication exacerbates this policy distortion.

This paper fills a gap in the literature by providing the more complete policy, legal and economic context for evaluating scholarly publishing. It details for the first time the $100s of millions in ex ante investments in infrastructure, skilled labor, and other resources required to create, publish, distribute and maintain scholarly articles on the Internet and in other digital platforms. Based on interviews with representatives from scholarly publishers, it reveals publishers’ extensive and innovative development of digital distribution mechanisms since the advent of the World Wide Web in 1993. Even more important, this paper explains how these investments in private-ordering mechanisms reflect fundamental copyright policy, as copyright secures to both authors and publishers the fruits of their productive labors. In sum, copyright spurs both authors to invest in new works and publishers to invest in innovative, private-ordering mechanisms to distribute these works. Both of these fundamental copyright policies are as important today in our fast-changing digital world as they were in yesteryear's world in which publishers distributed scholarly articles in dead-tree format.

THE BEGINNING OF A (HAPPY?) RELATIONSHIP: COPYRIGHT AND FREEDOM OF EXPRESSION IN EUROPE
in E.I.P.R. by Bernd Justin Jütte on 9/15/15
URL: http://ssrn.com/abstract=2725097

The relationship between the right to freedom of expression and copyright at European level has only recently been addressed in two cases, one before the European Court of Human Rights (Ashby Donald v France) and one before the Court of Justice of the EU (Deckmyn v
Vandersteen). The relationship between both fundamental rights is analysed by comparing the approaches of both European courts in striking the balance between both fundamental rights. Both courts have, so far, not given either right priority over the other, and both continue to grant Member States a wide margin of discretion to strike the balance at the national level.

UNAVOIDABLE AESTHETIC JUDGMENTS IN COPYRIGHT LAW: A COMMUNITY OF PRACTICE STANDARD
in NW. U. L. Rev. by Robert Kirk Walker & Ben Depoorter on 2/4/16
URL: http://ssrn.com/abstract=2728019

Aesthetic judgments are “dangerous undertakings” for courts, but they are unavoidable in copyright law. In theory, copyright does not distinguish between works on the basis of aesthetic values or merit (or lack thereof), and courts often go to great lengths to try to avoid artistic judgments. In practice, however, implicit aesthetic criteria are deeply embedded throughout copyright case law. The questions “What is art?” and “How should it be interpreted?” are inextricably linked to the questions “What does copyright protect?,” “Who is an author?,” “What is misappropriation?,” and many other issues essential to copyright. Although courts rarely (if ever) explicitly adhere to aesthetic principles in their decisions, the judicial logic used in copyright cases closely mirrors three major aesthetic theories: Formalism, Intentionalism, and Reader-Response. Unfortunately for courts, these theories are largely incompatible. Furthermore, none are sufficiently expansive to cover the variety of practices contained within a single artistic tradition, let alone the panoply of expressive mediums protected by copyright law. As a result, doctrinal inconsistencies abound (both inter- and intra-circuit), and the case law largely fails to provide clear guidance as to the scope of protection — and risk of liability — associated with different artistic practices. This Article examines how courts have applied aesthetic theories to resolve doctrinal issues concerning copyright eligibility, derivative works, useful articles, and statutory fair use. Based on this analysis, this Article argues that courts should adopt a uniform approach to aesthetic judgments from the perspective of a hypothetical “Community of Practice” capable of situating an expressive work in a specific artistic context.

REVISION: COPYRIGHT AND FREE EXPRESSION IN CHINA’S FILM INDUSTRY
in Fordham Intellectual Property, Media & Entertainment Law Journal by Eric Priest on 12/17/15
URL: http://ssrn.com/abstract=2705339

This Article analyzes whether copyright, which creates private rights in original expression and is therefore a legal tool for restricting the dissemination of information, exacerbates or undercuts state censorship in China’s film industry. Recent scholarship suggests that copyright law reinforces China’s oppressive censorship regime because both copyright and state censorship erect legal barriers around expressive works. The theory that copyright enhances censorship in China, however, overlooks the immense tension between state attempts at information control and market-supported information production made possible by copyright. This Article demonstrates that the Chinese government does not wield unchecked, top-down control over
China’s film industry because censorship policy and practice are profoundly influenced by complex interlocking power relationships between the audience, producers, and censoring authorities. These relationships result in a constant dialog between these groups that leads to concessions on all sides. Market-backed private producers meaningfully influence censorship policy because they are key players in this power dynamic with sufficient leverage to counter the censors’ formidable heft. Drawing from political science literature on Chinese economic reform, this Article provides a theoretical basis for arguing that selective enforcement of censorship rules, combined with (or indeed driven by) market forces and economic realities, can lead to meaningful (albeit not absolute) liberalization and reform of the formal rules. The transformative power of copyright and commercialization is limited: it is not a panacea that will fully defang or obliterate censorship policies or trigger democratic reform. Nevertheless, market demands and filmmakers’ need to satisfy those demands provide a counterbalance to state censorship that can, does, and will continue to erode censorship practices and increase expressive diversity in Chinese media.

CAUSING COPYRIGHT
URL: http://ssrn.com/abstract=2735850

Copyright protection attaches to an original work of expression the moment it is created and fixed in a tangible medium. Yet, modern copyright law contains no viable mechanism by which to examine whether someone is causally responsible for the creation and fixation of the work. Whenever the issue of causation arises, copyright law relies on its preexisting doctrinal devices to resolve the issue, in the process cloaking its intuitions about causation in altogether extraneous considerations. This Article argues that copyright law embodies an unstated, yet distinct theory of authorial causation, which connects the element of human agency to a work of expression using the myriad goals and objectives of the copyright system. This theory of causation is best realized through an independent requirement — of copyrightable causation — that the creator of a work will need to satisfy in order to qualify as its author for copyright protection. Much like copyright’s theory of authorial causation, the requirement would embody both a factual dimension (creation in fact) and a normative component (legal creation). The former would examine the connection between the work and the putative author as a purely epistemic matter, while the latter would do so through an evaluative understanding of copyright’s myriad goals and policies. The Article unpacks the structural and substantive foundations of authorial causation in copyright law, and argues that making it a new requirement for protection would introduce a measure of coherence and rationality into the question of copyrightability, while simultaneously allowing copyright law to overtly affirm and promote its various institutional ideals.
Professor Joseph Singer’s property scholarship explores the human, cultural, social, and distributive dimensions of property law. Using his body of work as a springboard, this article explores the cross-currents flowing between intellectual property and social justice. Part I examines the limitations of tangible property theory as a frame for understanding intellectual property policy. Part II distinguishes between internal, largely utilitarian, analysis of particular modes of intellectual property protection and the external interplay of intellectual property systems and broader social justice concerns. Part III explores the macro interplay of intellectual property and inequality, gender and racial inclusion, and global justice challenges, highlighting complexities, tensions, and paradoxes.

March 2016

UNDERSTANDING COPY RIGHT
by Cameron J. Hutchison on 2/19/16
URL: http://ssrn.com/abstract=2735089

At its core, copyright is about protecting the author’s right to copy. Traditionally, this meant that an author had control over, and profited from the sale of, copies of the expressive content of her work (consumptive copies). The digital revolution has created a demand for a new kind of copying, specifically as a raw material input into technological processes. These copies facilitate activities such as internet communication or the storage and retrieval of data but are not per se consumed for the expressive content of the work involved (non-consumptive copies). Copyright law has never encountered this kind of copying before. On the one hand, lower courts have reflexively assumed that such non-consumptive copying triggers the reproduction right. On the other hand, exceptions to this rule have been carved out for specific types of non-consumptive copying. The response of the Supreme Court on both of these fronts has lacked rigor. First, it has not applied a purposive analysis to determine whether non-consumptive copying was intended to trigger the right to copy (or reproduction right). Second, exceptions carved out by the court, culminating in the decision in CBC v. SODRAC (SODRAC), now appear piecemeal and irreconcilable with other forms of non-consumptive copying that do trigger the reproduction right.

This paper is a reaction to the decision in CBC v. SODRAC, in which the promise of the principle of technological neutrality as a means of rationalizing copyright holder rights in the digital realm failed to materialize. That decision, and how it relates to other digital copy case law from the Supreme Court over the past dozen years, should prompt us to re-think the fundamentals of the right to copy. In part I, after summarizing the majority and dissent judgments in SODRAC, I identify four elements of confusion in the Supreme Court’s treatment of digital copying: (1) vacillation between ordinary meaning and purposive approaches to interpreting the Copyright Act (Act) (2) uncertainty about the principle of technological neutrality and when it should be applied (3) a failure to identify the relevant attributes that justify differential treatment of the various kinds of digital copying and (4) the value now placed on copying as an input to a technological process and not just for the work’s expressive use. In part II, I propose a principled (though not perfect) framework for both distinguishing between different forms of digital copying – consumptive or non-consumptive use – and connecting this
to a purposive interpretation of the right to copy. The thesis is that the right to copy only applies when there is end user access to the expression of a work.

INTRODUCTION TO: FROM MAIMONIDES TO MICROSOFT: THE JEWISH LAW OF COPYRIGHT SINCE THE BIRTH OF PRINT (OXFORD UNIVERSITY PRESS 2016)
in Maimonides to Microsoft by Neil Weinstock Netanel on 2/23/16
URL: http://ssrn.com/abstract=2737173

In this book, Neil Netanel traces the historical development of Jewish copyright law. In so doing, he compares rabbinic reprinting bans with secular and papal book privileges and relays the stories of dramatic disputes among publishers of books of Jewish learning and liturgy, beginning with the early sixteenth century and continuing until today. He describes each dispute in its historical context and examines the rabbinic rulings that sought to resolve it. Remarkably, the rabbinic reprinting bans and copyright rulings address some of the same issues that animate copyright jurisprudence today: Is copyright a property right or just a right to receive fair compensation? How long should copyrights last? What purposes does copyright serve? While Jewish copyright law has borrowed from its secular counterpart at key junctures, it fashions strikingly different answers to those key questions.

MOVING MUSIC LICENSING INTO THE DIGITAL ERA: MORE COMPETITION AND LESS REGULATION
by Thomas M. Lenard & Lawrence J. Whiste on 12/4/15
URL: http://ssrn.com/abstract=2740656

The system for licensing music in the United States for public performances through radio, television, digital services and other distribution media is complicated, arcane and heavily regulated. Its basic structure is oriented toward transmitting music through analog channels. Although much of the pricing of music rights is supposed to be based on competitive prices, the current interdependent system of collective licensing of performing rights and widespread regulation of music prices (royalties) is inconsistent with the development of a competitive market and the associated efficiencies.

Collective licensing by a handful of performing rights organizations (PROs) provides the major rationale for price regulation. However, the existence of price regulation has entrenched collective licensing and the position of those PROs. A more competitive system entails moving away from collective licensing.

In this paper we review the current structure of the music licensing system and suggest ways of making it more competitive and less reliant on regulation. Central to our proposals are: a) a comprehensive, standardized database of musical compositions (including the specific sound recording version, where relevant) and their owners so that distributors and users can readily identify from whom they need to license rights, along with a “safe harbor” provision that would provide the appropriate incentives for rights owners to contribute their information to the
database; b) a greater ability of intermediaries to aggregate the various categories of music ownership rights; and c) the consequent development of more competitive negotiations and transactions between music rights holders and music distributors.

COPYRIGHT ACCIDENTS
in Boston University Law Review by Oren Bracha & Patrick Russell Goold on 3/16/16
URL: http://ssrn.com/abstract=2748665

It is a deeply entrenched principle that copyright infringement does not require fault. The Article reexamines this principle in the context of “copyright accidents.” Copyright accidents occur when ex ante it is not certain whether a proposed use will result in copyright infringement. In cases where the copyright status of a work is unclear, where the preferences of the copyright owner are reasonably in doubt, or where the copyist is unaware she is copying, there is merely a risk that a proposed use will infringe the right. And troublingly, the measures that any party could take to reduce that risk – for example searching for the copyright information – impose costs. Such copyright accidents are ubiquitous, but they are invisible to copyright law. The law has no doctrinal or conceptual mechanism for dealing with them. In such circumstances the question becomes, should liability require fault?

To answer this question we apply the well-developed theoretical framework of tort law to copyright accidents. Typically, tort law deals with the problem of accidental harm through the application of negligence rules. Such rules incentivize both potential injurers and victims to invest optimally in prevention. This Article argues that copyright accidents should likewise be governed by a negligence rule. Employing a negligence rule in copyright is justified by both efficiency and other consequence-oriented normative theories of copyright. Doing so would incentivize both the copyright owner and user to take optimal measures to avoid copyright accidents. We demonstrate how simple changes to the fair use doctrine could implement a negligence rule in copyright and thus solve the copyright accident problem. This in turn would positively affect numerous real world controversies, such as the problems of mass digitization, orphan works, and copyright triangles.

THE COPY PROCESS
in New York University Law Review by Joseph Fishman on 3/15/16
URL: http://ssrn.com/abstract=2748145

There’s more than one way to copy. The process of copying can be laborious or easy, expensive or cheap, educative or unenriching. But the two intellectual property regimes that make copying an element of liability, copyright and trade secrecy, approach these distinctions differently. Copyright conflates them. Infringement doctrine considers all copying processes equally suspect, asking only whether the resulting product is substantially similar to the protected work. By contrast, trade secrecy asks not only whether but also how the defendant copied. It limits liability to those who appropriate information through means that the law deems improper.
This Article argues that copyright doctrine should borrow a page from trade secrecy by factoring the defendant’s copying process into the infringement analysis. To a wide range of actors within the copyright ecosystem, differences in process matter. Innovators face less risk from competitors if imitation is costly than if it is cheap. Consumers may value a work remade from scratch more than they do a digital reproduction. Beginners can learn more technical skills from deliberately tracing an expert’s creative steps than from simply clicking cut and paste. The consequences of copying, in short, often depend on how the copies are made.

Fortunately, getting courts to consider process in copyright cases may not be as far-fetched as the doctrine suggests. Black-letter law notwithstanding, courts sometimes subtly invoke the defendant’s process when ostensibly assessing the propriety of the defendant’s product. While these decisions are on the right track, it’s time to bring process out into the open. Copyright doctrine could be both more descriptively transparent and more normatively attractive by expressly looking beyond the face of a copy and asking how it got there.

PLAGIARISM IS NOT A CRIME
in Duquesne University Law Review by Brian L. Frye on 3/20/16
URL: http://ssrn.com/abstract=2752139

Copyright infringement and plagiarism are related but distinct concepts. Copyright prohibits certain uses of original works of authorship without permission. Plagiarism norms prohibit copying certain expressions, facts, and ideas without attribution. The prevailing theory of copyright is the economic theory, which holds that copyright is justified because it is economically efficient. This article considers whether academic plagiarism norms are economically efficient. It concludes that academic plagiarism norms prohibiting non-copyright infringing plagiarism are not efficient and should be ignored.

NEW: THE LAWYER'S ROLE IN PROMOTING THE USE OF FAIR USE
by Jon M. Garon on 3/8/2016
URL: http://www.ssrn.com/abstract=2750462

A third party’s ability to exploit a literary work, photograph, film, song, or database will depend on the nature of the copyright owner’s work and the third party’s usage. This article provides an introductory standardization to help lawyers answer questions regarding the contours of copyright, fair use, and select limitations on copyright in order to provide a simple guide to reduce a bit of the uncertainty. The purpose is to provide a framework for how a lawyer can respond to the common question of whether a particular use of copyrighted works is permitted by a third party and to place the framework for the answer in the context of an opinion letter. In this way, the third party user will have an answer that can be relied upon when seeking publication or Errors & Omissions Insurance for distribution and exhibition.

TAKEDOWN AND TODAY'S ACADEMIC DIGITAL LIBRARY
Fueled by recent public and private efforts to improve access to scholarly works, academic libraries and archives are increasingly digitizing their special collections and creating online repositories for scholarly works. This enhanced online presence has increased libraries’ exposure to takedown requests from rightsholders and other concerned parties. Using survey questions and interviews, we examined academic libraries’ interaction with both Digital Millennium Copyright Act (“DMCA”) and non-DMCA takedown notices. We found that academic libraries most commonly receive non-DMCA takedown requests that are based on non-copyright issues (such as privacy) or that target materials the library itself has placed online. In general, libraries have well-developed norms and practices in place to manage these types of requests to remove material. We also found, however, that formal DMCA notices directed to libraries have historically been rare, but that this may be changing as open access repositories hosted by libraries grow. In tracing the recent experience of academic libraries that have received DMCA takedown notices targeting material in their open access repositories, we found that libraries have not yet developed norms and practices for addressing these requests. We discuss why this might be, and suggest steps libraries, publishers, and authors can take to best manage copyright conflicts while supporting libraries’ missions to preserve and provide access to knowledge.

THE MONKEY SELFIE: COPYRIGHT LESSONS FOR ORIGINALITY IN PHOTOGRAPHS AND INTERNET JURISDICTION
in Internet Policy Review by Andrés Guadamuz on 3/21/16
URL: http://ssrn.com/abstract=2752461

In 2011, a macaque monkey used a camera belonging to British photographer David Slater in Indonesia to take a self-portrait. The selfie picture became famous worldwide after it was published in the British media. In 2014 Slater sent a removal request to Wikimedia Commons, which indicated that the picture was in the public domain because it had been taken by the monkey and animals cannot own copyright works. While most of the legal analysis so far has been centred around US law, this article takes a completely different approach. Re-assessing jurisdictional issues, I examine the case from a UK and European perspective. The monkey selfie is of importance to internet policy: it has a lot to teach us about online jurisdiction. Under current originality rules, David Slater has a good copyright claim for ownership of the picture.

THE COPY PROCESS
in New York University Law Review by Joseph Fishman on 3/15/16
URL: http://ssrn.com/abstract=2748145

There’s more than one way to copy. The process of copying can be laborious or easy, expensive or cheap, educative or unenriching. But the two intellectual property regimes that make copying an element of liability, copyright and trade secrecy, approach these distinctions differently. Copyright conflates them. Infringement doctrine considers all copying processes equally suspect,
This Article argues that copyright doctrine should borrow a page from trade secrecy by factoring the defendant’s copying process into the infringement analysis. To a wide range of actors within the copyright ecosystem, differences in process matter. Innovators face less risk from competitors if imitation is costly than if it is cheap. Consumers may value a work remade from scratch more than they do a digital reproduction. Beginners can learn more technical skills from deliberately tracing an expert’s creative steps than from simply clicking cut and paste. The consequences of copying, in short, often depend on how the copies are made.

Fortunately, getting courts to consider process in copyright cases may not be as far-fetched as the doctrine suggests. Black-letter law notwithstanding, courts sometimes subtly invoke the defendant’s process when ostensibly assessing the propriety of the defendant’s product. While these decisions are on the right track, it’s time to bring process out into the open. Copyright doctrine could be both more descriptively transparent and more normatively attractive by expressly looking beyond the face of a copy and asking how it got there.

CREATIVE COMMONS LICENSES: EMPOWERING OPEN ACCESS
by Thomas Margoni & Diane M. Peters on 3/10/16
URL: http://ssrn.com/abstract=2746044

Open access (OA) is a concept that in recent years has acquired popularity and widespread recognition. International statements and scholarly analysis converge on the following main characteristics of open access: free availability on the public Internet, permission for any users to read, download, copy, distribute, print, search, and link to the full texts of these articles, crawl them for indexing, pass them as data to software, and use them for any other lawful purpose, without financial, legal, or technical barriers other than those inseparable from gaining access to the Internet itself. The only legal constraint on reproduction and distribution, and the only role for copyright in this domain, should be to give authors control over the integrity of their work and the right to be properly acknowledged and cited.

THE ELEMENTS OF MUSIC RELEVANT FOR COPYRIGHT PROTECTION
URL: http://ssrn.com/abstract=2755008

One may argue that copyright law has no genuine understanding of the nature of music as an art form; it attaches to certain aspects of music which it declares as normatively relevant and thus ascertains building blocks of the legal protection system. In this way music is considered as an object of legal transactions, especially as an object of transferable property. This is a result of the translation process of music into legal categories. This chapter looks at the elements and stages
of this process, starting with sketching out a philosophical discussion of the phenomenon of music as a basis for copyright protection.

April 2016

CONTENT-BASED COPYRIGHT DENIAL
in Indiana Law Journal by Ned Snow on 11/25/15
URL: http://ssrn.com/abstract=2754713

No principle of First Amendment law is more firmly established than the principle that government may not restrict speech based on its content. It would seem to follow, then, that Congress may not withhold copyright protection for disfavored categories of content, such as violent video games or pornography. This Article argues otherwise. This Article is the first to recognize a distinction in the scope of coverage between the First Amendment and the Copyright Clause. It claims that speech protection from government censorship does not imply speech protection from private copying. Crucially, I argue that this distinction in the scope of coverage between copyright and free speech law does not suggest a tension between them. To the contrary, the distinction enables copyright to further the purpose of free speech under the marketplace-of-ideas speech theory. Through copyright, Congress may alleviate failures in that marketplace which stem from individuals determining the value of speech for the collective. Furthermore, the possibility of Congress abusing this discriminatory power poses relatively minimal threat to speech because copyright denial does not altogether prevent speakers from realizing profit from their speech. This fact, coupled with viewpoint-neutrality and rational-basis restraints, alleviates the usual risks associated with government influencing content in the marketplace. Additionally, free-speech doctrine leaves room for the sort of discrimination that Congress would exercise in defining copyright eligibility according to content. Doctrines governing limited-public forums and congressional funding allow for content discrimination akin to content-based copyright denial.

RISKY IP
by Andres Sawicki on 2/16
URL: http://ssrn.com/abstract=2748356

Intellectual property scholars assume that artists and inventors are risk averse. These creators are thought to prefer a known outcome to an unknown one of equivalent expected value. IP scholars therefore frequently argue that legal uncertainty will lead to suboptimal levels of artistic and inventive work.

This Article challenges IP’s fundamental risk-aversion assumption. Theory and evidence from the interdisciplinary field of creativity research indicates that a willingness to take risks is an essential part of the creative personality. As a result, IP scholars should not generally assume that creators are risk averse; instead, the most plausible starting point is that creators are risk seeking, either in absolute terms or at least compared to the general population. The creativity literature also suggests that risk might be an environmental factor facilitating creativity, whether or not creators themselves prefer it. This possibility demands that IP scholars take a more nuanced
approach to the impact of IP risk than the simplified risk preference approach they have pursued thus far.

The analysis here has significant implications for many persistent questions in IP law and policy. It indicates, for example, that uncertain doctrines like the fair use defense in copyright law are not nearly so problematic as ordinarily assumed. And efforts to make IP more predictable, like the Supreme Court’s recent opinion in Nautilus v. Biosig, may have hidden costs. Most fundamentally, the analysis suggests that patents and copyrights — rewards of uncertain value — are better able to stimulate creativity than more predictable mechanisms like grants or subsidies.

RATIONAL FAITH: THE UTILITY OF FAIRNESS IN COPYRIGHT
in Boston University Law Review by Stephanie Plamondon Bair on 4/5/16
URL: http://ssrn.com/abstract=2759513

The biggest debate in copyright law is also the most fundamental: for what purpose does copyright exist? There are two schools of thought about the appropriate answer to this key question. The first, dominant school focuses on economic efficiency, while the second emphasizes fairness and other moral concerns. As evidenced by scholarly response to the Blurred Lines litigation and Mark Lemley’s recent piece, Faith-Based Intellectual Property, proponents of each school are often at odds with each other. There is little middle ground.

This either/or view of efficiency and moral rights is detrimental to a productive scholarly debate about the value of copyright. More importantly, it is wrong. Scholars like Jeanne Fromer, Christopher Buccafusco, and David Fagundes have recently pointed out that moral concerns are not necessarily inconsistent with, and could in some circumstances even promote utilitarian ends.

Here, I reframe the debate by suggesting that the dichotomy between moral rights and utility should be abolished altogether. Drawing on insights from neuroscience, psychology, and organizational behavior, I demonstrate that when it comes to creation, fairness — a moral rights concern — often is utility in a very real sense. The evidence suggests that treating creators fairly acts as a powerful motivator for creative work, results in objectively more creative output, and aligns well with public and legal decision-makers’ moral intuitions. In other words, the most efficient copyright system is a fair one.

This conclusion has implications for both copyright scholarship and policy. On the scholarship side, it builds a tangible bridge between utilitarian and moral rights camps. Moral rights advocates previously accused of a blind faith in the value of fairly administered rights can now respond that their faith is rational. On the policy side, I explain how novel fairness-enhancing mechanisms like individualized permissive use and an increased focus on distributive concerns in applying the fair use doctrine can increase the overall efficiency of the copyright system — a proposition that should appeal to scholars on both sides of the debate.

JUST COMPENSATION FOR INTELLECTUAL PROPERTY
Intellectual property creates two serious, seemingly unrelated problems that have vexed scholars and generated significant political and media interest. First, IP creates deadweight losses, because the exclusive rights granted to IP owners allow them to charge higher prices that keep some customers out of the market entirely. Second, multinational corporations avoid taxes on a massive scale by transferring their IP to tax havens.

This Article proposes solving both deadweight losses and tax avoidance simultaneously. The key is eminent domain. Scholars have long recognized that government could eliminate deadweight losses by "taking" IP and making it free for anyone to use. The formidable obstacle has long been determining the "just compensation" required by the Fifth Amendment's Takings Clause.

This Article solves this conundrum by having government take IP, with the "just compensation" equal to the price used to transfer the IP to a tax haven. This solution passes legal muster, since tax law requires that IP owners attest (under penalties of perjury) that the prices chosen for such transfers meet a standard that is identical to the Taking Clause standard for determining "just compensation." Taking the IP eliminates the deadweight losses, while the threat of taking for transfer prices deters tax avoidance.

In addition to providing a practical solution to two serious problems, this Article also makes two significant theoretical contributions. First, it upends the widespread assumption that allowing property owners to self-assess their potential "just compensation" works only for real property. Second, it challenges the conventional wisdom that transferring IP to tax havens is always socially detrimental. This Article's proposal harnesses these tax-avoidance strategies to eliminate deadweight losses.
responsibility for primary infringement of the making available right in a principled manner, without unduly restricting the development of innovative services in the cloud.

A COPYRIGHT RIGHT OF PUBLICITY
in Fordham Law Review by Reid K. Weisbord on 5/1/2016
URL: http://ssrn.com/abstract=2771362

This Article identifies a striking asymmetry in the law's disparate treatment of publicity-rights holders and copyright holders. State-law publicity rights generally protect individuals from unauthorized use of their name and likeness by others. Publicity-claim liability, however, is limited by the First Amendment's protection for expressive speech embodying a "transformative use" of the publicity-rights holder's identity. This Article examines for the first time a further limitation imposed by copyright law: when a publicity-rights holder's identity is transformatively depicted in a copyrighted work without consent, the author's copyright can produce the peculiar result of enjoining the publicity-rights holder from using or engaging in speech about her own depiction. This Article offers novel contributions to the literature on copyright overreach and: (1) identifies a legal asymmetry produced in the interplay of publicity rights, copyright law, and the First Amendment; (2) examines the burdens on constitutionally protected speech, autonomy, and liberty interests of publicity-rights holders when copyright law prevents or constrains use of their own depiction; and (3) outlines a framework for recognizing a "copyright right of publicity" to exempt the publicity-rights holder's use from copyright infringement liability.

BERNE-FORBIDDEN FORMALITIES AND MASS DIGITIZATION
in Boston University Law Review by Jane C. Ginsburg on 4/30/2016
URL: http://ssrn.com/abstract=2772176

This Essay addresses the Berne Convention's prohibition on the imposition of "formalities" on the "enjoyment and the exercise" of copyright, and the compatibility with that cornerstone norm of international endeavors to facilitate mass digitization, notably by means of extended collective licensing and "opt-out" authorizations. The Essay begins with a brief overview of the history of formalities conditioning the existence and enforcement of copyright, and the policies underlying their prohibition in Berne article 5(2). Next, it addresses declaratory measures that Berne explicitly authorizes, as well as those of more questionable conformity with treaty norms. It then takes up the relationship between formalities and copyright management, particularly in light of laws or proposals to facilitate mass digitization through opt-outable presumptions of authorization to digitize and disseminate.

The Essay concludes that requiring the author to opt-out of a restriction on the scope of her exclusive rights violates the Berne Convention's prohibition on subjecting "the enjoyment and the exercise" of her rights to compliance with formalities. The prohibition applies even when a member state provides rights that exceed the conventional minimum scope of rights. The Essay analyzes the practical and policy issues that underlie this conclusion. By contrast, Berne does not bar opt-out measures that pertain to the administration of authors' rights by collective
management organizations, particularly in the context of extended collective licenses. In this instance, the opt-out notice does not affect the existence and scope of the author's rights. Rather, it goes to the licensing and management of authors' rights, whatever their content or extent. Berne generally leaves unaddressed issues going to ownership, transfer and licensing of authors' rights; member states may fill that gap, including by mandating or presuming the exclusive or nonexclusive grant of the author's rights to a collective management organization. Two considerations will determine the effectiveness of those organizations' grants of rights for territories beyond the works' countries of origin. First, whether the author's actual or presumed grant to the collective management organization included extraterritorial rights. Second, whether the copyright-contract and private international law rules of the foreign countries for which the author granted rights will recognize the validity of the grant, particularly if the licensor's authority to exercise the author's rights in foreign states (including by means of reciprocal agreements with equivalent organizations in other states) derives from a presumption of transfer from authors who are not members of the licensing organization.

INTELLECTUAL PROPERTY IN NEWS? WHY NOT?
by Sam Ricketson & Jane C. Ginsburg on 5/2/2016
URL: http://ssrn.com/abstract=2773797

This Chapter addresses arguments for and against property rights in news, from the outset of national law efforts to safeguard the efforts of newsgathers, through the various unsuccessful attempts during the early part of the last century to fashion some form of international protection within the Berne Convention on literary and artistic works and the Paris Convention on industrial property. The Chapter next turns to contemporary endeavors to protect newsgatherers against "news aggregation" by online platforms. It considers the extent to which the aggregated content might be copyrightable, and whether, even if the content is protected, various exceptions set out in the Berne Convention permit its unlicensed appropriation.

FRANK CASTORF'S 'BAAL' - DIRECTOR'S THEATER ON TRIAL: THEATER DIRECTORS IN CONFLICT WITH COPYRIGHT LAW IN GERMANY
by Rupprecht Podsuzn on 4/28/16
URL: http://ssrn.com/abstract=2771638

In 2015, the Munich District Court dealt with the staging of the play "Baal" by Bertolt Brecht in Munich Residenztheater. The heirs of the author claimed that the director of the play, Frank Castorf, a giant of German "Regietheater" (Director's Theater) had taken too much liberty in working with the text instead of staging a faithful interpretation. The case stirred uproar in Germany and shed light on the relationship of copyright laws and postmodern theater interpretations.

This lawsuit (settled after all) concerning a director's creative freedom serves as the starting point in this paper to examine the relationship between copyright law and Regietheater in German theater and legal practice.
Part I retraces the conflict between the Residenztheater and the Brecht-estate giving an account of the litigation. In Part II, the topic is broadly positioned in the field of copyright law - a field of law rewarding creativity and individuality of authors. In Part III, the treatment of director's theater in the practice of German courts will be retraced. For this, the case law is reviewed. Part IV provides a perspective on related techniques from other cultural branches (likes sampling, mash-ups or hacking), and it explains two seminal judgments by German courts, "Metall auf Metall" and "Germania 3". Finally, Part V concludes with thoughts on Director's Theater and Castorf's role in postmodern theater.

VOLITION AND COPYRIGHT INFRINGEMENT
in Cardozo Law Review by Robert Denicola on 4/1/16
URL: http://ssrn.com/abstract=2770677

When should Internet service providers or other system owners be directly liable for copyright infringements committed by the users of their systems? In a 2014 dissent in American Broadcasting Cos. v. Aereo, Justice Scalia sought an answer to that question in "a simple but profoundly important rule" of copyright law: "A defendant may be held directly liable only if it has engaged in volitional conduct that violates the Act." Scalia's "profoundly important rule," however, is hardly an accepted bedrock of copyright law. As he himself admitted, the Supreme Court had never previously used the word "volition" in the context of copyright, nor have a majority of the federal courts of appeals. The leading treatise on copyright law calls the "volition" element "revolutionary." It is a startling debate, coming as it does more than two centuries after Congress first imposed liability for copyright infringement. "Volition" in copyright law has come to mean much more than the traditional inquiry into the voluntariness of a defendant's conduct. It is best understood as requiring a connection between the service provider and the infringed work that is sufficiently robust to allow the provider to control the infringement without the necessity of monitoring the conduct of third-party users. The doctrine serves a basic channeling function. If the only way for a service provider to avoid infringement is to monitor and police the conduct of third parties, the provider's potential liability for any resulting violations should be determined not on the basis of principles governing direct liability but instead under the rules that determine secondary liability for infringements committed by others.

RECONCEPTUALIZING COPYRIGHT'S MERGER DOCTRINE
in Journal of the Copyright Society of the U.S.A. by Pamela Samuelson on 4/12/16
URL: http://ssrn.com/abstract=2763903

Under the merger doctrine of U.S. copyright law, courts sometimes find original expression in a work of authorship to be "merged" with the idea expressed, when that idea is incapable of being expressed, as a practical matter, in more than one or a small number of ways. To be true to the principle that copyright law does not extend its protection to ideas, courts have held in numerous cases that the merged expression is unprotectable by copyright law.
This Article, which memorializes the 2015 Brace Lecture, identifies and dispels eight myths about the merger doctrine, including the myth that the doctrine was borne in the Supreme Court's Baker v. Selden decision. It also discusses merger in relation to other copyright doctrines, such as scenes a faire, originality, and the exclusion of processes embodied in copyrighted works. Finally, it considers various functions of the merger doctrine, such as averting unwarranted monopolies, policing the boundaries between copyright and patent law, and enabling the ongoing progress of knowledge.

THE AUTHOR WAS NOT AN AUTHOR: THE COPYRIGHT INTERESTS OF PHOTOGRAPHIC SUBJECTS FROM WILDE TO GARCIA
in Columbia Journal of Law & the Arts by Eva E. Subotnik on 5/1/16
URL: http://ssrn.com/abstract=2773722

Toward the end of his dissent in Garcia v. Google, Judge Alex Kozinski remarked that "[w]hen modern works, such as films or plays, are produced, contributors will often create separate, copyrightable works as part of the process." Judge Kozinski's characterization of plays (or even films) as "modern works" opens the door to an examination of that claim with respect to another genre of modern work: the photograph. This essay focuses on the treatment of claimed authorial contributions by photographic subjects to the photographs in which they are portrayed. It traces the analysis of this issue from the early photography cases (and provides the relevant litigated images) to present times. What emerges is a forceful line of precedent that largely did not consider, accept, or emphasize a photographic subject's authorial contributions to a finished photographic image. Coming full circle, I argue that longstanding judicial instincts on this front may help explain the outcome in the Garcia case.

REPLICATING FOUR 'QUASI-EXPERIMENTS' AND THREE FACTS FROM OBERHOLZERGEE/STRUMPF'S PIRACY ARTICLE
by Stan J. Liebowitz on 5/11/2016
URL: http://www.ssrn.com/abstract=2777216

The influential piracy paper by Professors Oberholzer-Gee and Strumpf, although mainly based on proprietary data, contained an "important complement" to the main results, consisting of four "quasi-experiments" using publicly available data. This replication examines all of these quasi-experiments, narrowly using identical data and statistical methods, as well as in a broader sense by extending or augmenting the data or methods. The results of these replications are that the great majority of their claims are unsupported by the narrow replications and none of their economic conclusions hold up under narrow or broad replication.

MUSIC FOR DEVELOPMENT IN THE DIGITAL AGE
by Patrick Kabanda on 3/16
URL: http://ssrn.com/abstract=2768891
The music world has had its share of Internet-led shake-ups. Digital piracy and the advertisement rules of platforms like YouTube are major concerns. But there are also opportunities: online marketing, arts education, cultural awareness, and nation branding are particularly notable. How can development practice take advantage of these opportunities? This discussion stresses (1) giving artists the capability to use the Internet effectively; (2) prioritizing open Internet access, especially in rural areas; (3) considering strong antitrust provisions in media ownership; (4) granting such provisions as solar tax credits to artists or creative businesses where needed; (5) targeting cultural elements that may inhibit Internet access for female artists; (6) promoting intellectual property training; and (7) creating a platform that carries traditional music for development.

RECREATING COPYRIGHT: THE COGNITIVE PROCESS OF CREATION AND COPYRIGHT LAW
in Fordham Intellectual Property, Media & Entertainment Law Journal by Omri Rachum-Twaig on 5/5/16
URL: http://ssrn.com/abstract=2776292

Copyright law reflects the intuitive understating of creativity in the eyes of the law. This is because copyright's primary goal is to promote creativity. But is the legal understanding of creativity in line with cognitive psychology's understanding of the creative process? This article examines whether there is a match between the law and cognitive psychology research as far as creativity is concerned. Some scholars posit that theories of creativity fit well with current copyright law. For example, it has recently been argued that, based upon some accounts of creativity, copyright law's constraints on creativity actually push authors to create more original and creative works. In contrast, this article provides a broad evaluation of creativity studies and questions whether they indeed fit with copyright law's assumptions about creativity. While many copyright doctrines fit the cognitive understanding of creativity, the idea/expression dichotomy, which requires the same standard of review for both derivative works and reproductions, is not justified under the cognitive psychology of the creative process.

COPYRIGHT TERM EXTENSION ECONOMIC EFFECT ON THE NEW ZEALAND ECONOMY
by George Robert Barker & Stan J. Liebowitz on 4/27/2016
URL: http://www.ssrn.com/abstract=2770914

This paper reviews an estimate of the economic effect on the New Zealand economy of copyright term extension which was recently released by the New Zealand Government but which was tabled as part of the Trans Pacific Partnership (TPP) negotiations on the IP Chapter. The estimate is that the average cost to New Zealand from the obligation under TPP to extend New Zealand's copyright period from 50 to 70 years would average around $55 million per year. Our review of this estimate suggests it is clearly incorrect, and indeed seriously over-estimates costs. As we demonstrate, the expert report by Henry Ergas on which it was based made major
errors. First it focused only on the well-known social costs of copyright while completely excluding the equally well-known social benefits from copyright, thus ensuring, given that New Zealand is a net importer of copyrighted goods, that term extension would be found to have a negative impact. Second it made serious errors in its calculations of the ...

May 2016

ENGLISH & CONTINENTAL TESTS OF ORIGINALITY: LABOUR, SKILL, AND JUDGEMENT VERSUS CREATIONS OF THE MIND
by Colin Manning on 5/19/16
URL: http://ssrn.com/abstract=2782052

This paper traces the provenance of the predominant tests of originality in copyright to their instrumental and author's rights justifications. It argues that the idea/expression dichotomy is essential to any evaluation of their relative merits, but is being undermined. It illustrates the hazards of absolutist applications of the tests and demonstrates, primarily with reference to photography, how many established principles of copyright law are problematic. It argues that despite increasing constitutionalisation of intellectual property, the public interest is best served by acknowledging that copyright is primarily a policy choice.

AGAINST CREATIVITY
by Brian L. Frye on 5/27/16

According to the Supreme Court, copyright requires both independent creation and creativity. The independent creation requirement effectively provides that copyright cannot protect copies or abstract ideas. But the creativity requirement should be abandoned because it is both incoherent and inconsistent with the aesthetic nondiscrimination principle. The purpose of copyright is to promote the production of economically valuable works of authorship, not creativity.

June 2016

EXHAUSTION AND THE ALTERATION OF COPYRIGHT WORKS IN EU COPYRIGHT LAW - (C-419/13) ART & ALLPOSTERS INTERNATIONAL BV V STICHTING PICTORIGHT
in ERA Forum by Jonathan Griffiths on 5/26/16
URL: http://ssrn.com/abstract=2784704

The Judgment of the Court of Justice in (C-419/13) Art & Allposters International BV v Stichting Pictoright concerned a claim that the transfer of an image from paper poster to artist's canvas infringed copyright in that image. It is argued here that, while the case sheds little light on the potential application of the Usedsoft principle to copyright works more generally, its significance extends well beyond the relatively specialist practices with which the national proceedings were concerned. Following an outline of the Judgment, the article goes on to
consider its implications for our understanding of the reproduction, distribution and adaptation rights in EU copyright law.

HYPERLINKS & COPYRIGHT LAW
by Colin Manning on 5/18/16
URL: http://ssrn.com/abstract=2781471

Reconciling the desire for wide distribution with the desire for control has proven challenging for the law. Deep linking is a good illustration of how applying print and broadcast era concepts to the challenges of the digital era can result in uncertainty and unintended consequences. In the Svennson decision, the court not only failed to acknowledge the distinction between linking and embedding, but it explicitly permitted embedding of content from other sites. This could have implications for how content is distributed, and may ultimately harm user privacy.

REFORMING COPYRIGHT INTERPRETATION
in Harvard J. L & Tech. by Zahr K. Said on 4/2015

Copyright law has an interpretation problem that is in need of reform. Judges routinely face complex interpretive choices when they resolve disputes over potentially copyrightable works. Judges choose whether to resolve an issue as a matter of law, whether to admit - or even require - extrinsic evidence that may be relevant to their interpretation, and whether to rely on judicial intuition or formal analysis in their decision-making. The interpretive choices that judges make about works have played an important but unacknowledged role in outcomes of cases involving screenplays, architecture, novels, pop songs, nonfiction works, and photography.

COPYRIGHT'S OTHER FUNCTIONS
in Chicago-Kent Journal of Intellectual Property by Margaret Chon on 6/3/16
URL: http://ssrn.com/abstract=2789876

This response to a keynote speech by Judge Margaret McKeown explores some dimensions of copyright in addition to its dominant function as a set of market-facilitating exclusive rights. The recent possible trend towards protecting privacy and other non-commercial concerns via copyright law is not necessarily inconsistent with its historical usages, does not necessarily threaten freedom of expression and may further important privacy policies. The balance of these competing policies is shifting, especially in an environment of proliferating digital content where cyber civil rights may need further development in response to cyberbullying. It examines the specific case of non-consensual pornography as a means of exploring possible doctrinal and policy directions. Ultimately it endorses a less formalistic and more flexible use of copyright to address harms currently under-recognized by our existing legal frameworks.
This article analyzes copyright law as a growing burden on free speech institutions such as newspapers, television stations, Web sites, and software platforms. Free speech institutions help us read, watch, access, write, perform, display, transform what has been written, and publish what is newly or previously written or transformed. Yet copyright law potentially outlaws the unauthorized reading, watching, performing, transforming, or publishing of existing work. Fair use shields free speech institutions from some claims of infringement based on their mediating role.

Emerging copyright norms could harm the freedom and diversity of the Internet, however. Associations of media and Internet corporations have become prolific sources of proposed norms governing Internet speech and communication. They asked the Obama administration to pressure Web sites such as YouTube to agree to a series of Principles for User-Generated Content Services, which would delete (or filter) quotations of media content in audio or audiovisual form, often without regard to fair use. An Open Book Alliance filed briefs in federal court arguing that Google should be restricted from contracting with publishers to create digital libraries of books. The Associated Press and Media Bloggers Association proposed that fair use be restricted online in ways that are contrary to established custom in print and on television, as well as online. Media corporations requested a National Broadband Plan that endorsed filtering out copyrighted material.

This article explores how negotiations between copyright industry trade associations and online services present a risk to free speech institutions. Specifically, the norms advanced by the associations are often framed so as to preserve revenue streams at expense of Internet users' freedom of expression. Industry groups frequently characterize as "piracy" or a "threat" what courts or legislators would regard as First-Amendment protected, transformative fair use, outside the scope of copyright or trademark rights, or free competition under antitrust law. Moreover, such negotiations may increase the price of information works while reducing the quality of Internet services, including their interactivity and accessibility to the poor and those on fixed incomes. This article therefore describes the problem of non-price-related restraints on upstart Internet and social media companies, such as a requirement to filter out quotations. Such restraints do not burden incumbents, which typically do not confront prepublication filtering of their content.

Antitrust cases and constitutional doctrine are slow to evolve, however. For this reason, the article calls for reform of the fair use privilege of free speech institutions in three key areas: burden of proof, due process, and liability standards. The reforms are intended to serve core constitutional values: liberty of expression, communicative privacy, separation of powers, and the rule of law. Other scholars have proposed reforms to the fair use doctrine that alter procedures, focus on quantitative thresholds of use, or protect a subset of free speech institutions' activity. This article proposes reforming the statute to shield fair users from liability if they do
not harm the copyright holder, and to fix evidentiary problems which they face in proving a lack of harm. The proposed reforms will amend the fair use statute to prevent free speech institutions from confronting an impossible standard, i.e. a burden of disproving potential harm in aggregate.

AGAINST CREATIVITY
by Brian L. Frye on 5/27/16
URL: http://ssrn.com/abstract=2785953

According to the Supreme Court, copyright requires both independent creation and creativity. The independent creation requirement effectively provides that copyright cannot protect copies or abstract ideas. But the creativity requirement should be abandoned because it is both incoherent and inconsistent with the aesthetic nondiscrimination principle. The purpose of copyright is to promote the production of economically valuable works of authorship, not creativity.

'ENOUGH AND AS GOOD' IN THE INTELLECTUAL COMMONS: A LOCKEAN THEORY OF COPYRIGHT AND THE MERGER DOCTRINE
URL: http://ssrn.com/abstract=2791174

Embedded in our national identity, the right to reap the fruit of one's labor defines the quintessential American Dream. This ownership right seems so intuitively obvious that it needs no logical explanation, and thus John Locke's foundational theory of property rights is often misinterpreted from the start. Locke's labor theory of acquisition has perpetuated a kind of philosophical circuit split among scholars, relegating his ideas to a realm of partisan politics. These misinterpretations are unfortunate because, when properly applied, Locke's property theory holds the promise of resolving complex issues in copyright law and theory.

In the tradition of Locke's contextualist interpreters, this Comment examines Locke's philosophy and its context with the aim of describing a theory of Lockean copyright that is compatible with the basic tenets of American copyright law. Because the Lockean copyright theory offered here accounts for both procedural and consequential goods, it has stronger prescriptive power than the current utilitarian model and can do more work. Also, because Lockean duties lend well to bright-line rulemaking, applying Lockean thinking to legal analysis can streamline litigation. As an example of Locke's cash value to copyright law, this Comment expounds upon his thoughts on the natural law duties of property owners and the state's role in mitigating transaction costs of private ownership to assign burdens of proof at trial. This framework is utilized to outline a potential solution to the circuit split over whether the merger doctrine should apply during the copyrightability stage or the infringement stage of a copyright infringement lawsuit.

THE ECONOMICS OF BOOK DIGITIZATION AND THE GOOGLE BOOKS LITIGATION
by Hannibal Travis on 6/1/16
This piece explores the digitization and uploading to the Internet of full-text books, book previews in the form of chapters or snippets, and databases that index the contents of book collections. Along the way, it will describe the economics of copyright, the "digital dilemma," and controversies surrounding fair use arguments in the digital environment. It illustrates the deadweight losses from restricting digital libraries, book previews, copyright litigation settlements, and dual-use technologies that enable infringement but also fair use. By taking into account the lack of evidence that some forms of copying inflict serious harm, the emerging law of digitization and search engines for books would return contemporary copyright doctrine to a time when it only prohibits acts more likely to result in economic harm, such as competitive piracy.

CLAIMS TO EXPAND COPYRIGHT EXCEPTIONS DRIVEN BY 'BAD SCIENCE'
by George Robert Barker on 6/14/16
URL: http://ssrn.com/abstract=2795498

This report reviews a number of papers being used to try and justify major copyright policy changes in Asia Pacific. Specifically, this report reviews five papers cited by Google in Australia in support of its submission (the Submission) to the Productivity Commission's (PC) inquiry into Australia's intellectual property arrangements. In the Submission, Google expressed the view that Australia's copyright system is not as effective, efficient or adaptive as it needs to be, and that it is impeding Australia's capacity to innovate.

Our review of the empirical data Google cites, however, finds that in general, contrary to the claims that they are being used to support, these studies conclusions are bad science and offer no substantial empirical evidence of a causal link between broader copyright exceptions and productivity and economic growth. The studies cited in the Submission have been discredited, containing fundamental errors in empirical research, making them unfit for policy-making. Moreover, the evidence in the studies appears to contradict the claims made in the Submission. In particular:

- The 2012 Singapore fair use study cited by Google suggests that US-style fair use exceptions in Singapore were associated with a fall in the rate of growth of copyright industries. Singaporean copyright industry revenue growth slowed from 14.16 per cent to around 6.68 per cent per annum after the introduction of fair use.

- The 2012 Australian Lateral Economics Study cited by Google shows that fair use exceptions in the US are associated with a lower rate of growth of value-add in what it calls copyright exceptions industries in the US, compared the same industries in Australia.

Thus, as a result of the empirical analysis contained herein, this report concludes that the argument advanced by the Submission that broader copyright exceptions will promote productivity and economic growth is not based on sound research.
INTELLECTUAL PROPERTY IN THE NEW TECHNOLOGICAL AGE: 2016 - CHAPTERS 1 AND 2
URL: http://www.ssrn.com/abstract=2780190

Rapid advances in digital and life sciences technology continue to spur the evolution of intellectual property law. As professors and practitioners in this field know all too well, Congress and the courts continue to develop intellectual property law and jurisprudence at a rapid pace. For that reason, we have significantly augmented and revised "Intellectual Property in the New Technological Age.

July 2016

THE MOST MORAL OF RIGHTS: THE RIGHT TO BE RECOGNIZED AS THE AUTHOR OF ONE'S WORK
URL: http://www.ssrn.com/abstract=2806316

The U.S. Constitution authorizes Congress to secure for limited times the exclusive right of authors to their writings. Curiously, those rights, as enacted in our copyright laws, have not included a general right to be recognized as the author of one's writings. Yet, the interest in being identified with one's work is fundamental, whatever the conception of the philosophical or policy basis for copyright. The basic fairness of giving credit where it is due advances both the author-regarding and the public-regarding aspects of copyright.

Most national copyright laws guarantee the right of attribution (or "paternity"); the leading international copyright treaty, the Berne Convention, requires that Member States protect other Members' authors' right to claim authorship. But, apart from an infinitesimal (and badly drafted) recognition of the right in the 1990 Visual Artist's Right Act, and an uncertain and indirect route through protection of copyright management information, the U.S. has not implemented that obligation. Perpetuating that omission not only allows a source of international embarrassment to continue to fester; it also belittles our own creators. Copyright not only protects the economic interests in a work of authorship, it also secures (or should secure) the dignity interests that for many authors precede monetary gain. Without established and enforceable attribution rights, U.S. copyright neither meets international norms nor fulfills the aspirations of the constitutional copyright clause.

This article will analyze the bases and enforceability of attribution rights within international norms. It will review the sources of attribution rights in the current US copyright law, particularly the Visual Artists Rights Act, and section 1202's coverage of copyright management information. It will explore the extent to which removal of author-identifying information might violate section 1202 and/or disqualify an online service provider from the section 512 safe harbors. Finally, it will consider how our law might be interpreted or amended to provide for
authorship attribution. Non-legislative measures include making authorship attribution a consideration under the first factor of the fair use defense.

UNBUNDLING THE 'TORT' OF COPYRIGHT INFRINGEMENT
in Virginia Law Review by Patrick Russell Goold on 7/14/16
URL: http://ssrn.com/abstract=2809957

Judges and jurists view copyright infringement as a singular legal wrong, a.k.a. the tort of copyright infringement. In recent years, commentators have expressed mounting concern about the judicial test for this tort. Courts have no unified method for determining whether two works are substantially similar. The fair use doctrine is so unpredictable that some find it nothing more than the "right to hire a lawyer." And while some judges treat infringement as a property tort, like trespass or conversion, others think of it as an economic tort, like unfair competition. Scholars therefore find the test for infringement - copyright's "infringement analysis" - to be inconsistent and incoherent.

This Article provides a revised positive theory of copyright that clarifies the infringement test. The Article argues that copyright infringement is not one singular tort, but a group of torts. Using an analytic jurisprudential method, the Article "unbundles" infringement into five "copy-torts" called consumer copying, competitor copying, expressive privacy invasion, artistic reputation injury, and breach of creative control. Because copyright infringement is not one tort there cannot be one single infringement test. Instead, copyright's basic infringement analysis mutates doctrinally and theoretically to provide a unique legal test for each of the copy-torts. The variation in the infringement analysis is not necessarily inconsistent or incoherent, but enables courts to test for the different copy-torts. Understanding the different copy-torts will therefore make the infringement analysis more predictable. Not only will practitioners better foresee how courts will apply the test to their cases, but also judges are provided with a guide to applying the correct legal standards in infringement actions. To make the analysis even more predictable, the Article proposes a method of adjudicating hard cases that will help courts conceptually separate the copy-torts, thus ensuring they apply the correct legal tests in the future.

OVERVIEW OF COPYRIGHT LAW
URL: http://www.ssrn.com/abstract=2811179

This article offers an overview of copyright in general in common law and civil law countries, with an emphasis on the U.S. and the European Union. It addresses the history and philosophies of copyright (authors' right), subject matter of copyright (including the requirement of fixation and the exclusion of "ideas"), formalities, initial ownership and transfers of title, duration, exclusive moral and economic rights (including reproduction, adaptation, public performance and communication and making available to the public, distribution and exhaustion of the distribution right), exceptions and limitations (including fair use), and remedies. The article also covers the liability of intermediaries, and new copyright obligations concerning technological
protections and copyright management information. It concludes with some observations concerning the role of copyright in promoting creativity and free expression.

COPYRIGHT PATERNALISM
in Vanderbilt Journal of Entm't & Tech. Law by Kevin J. Hickey on 9/1/15
URL: http://ssrn.com/abstract=2697820

The dominant justification for copyright is based on the notion that authors respond rationally to economic incentives. Despite the dominance of this incentive model, however, many aspects of existing copyright law are best understood as motivated by paternalism. Termination rights permit authors to rescind their own earlier assignments of copyright. The elimination of formalities protects careless authors from forfeitures of copyright if they fail to register the copyright or place appropriate notice on their works. The law limits how copyrights can be transferred, when rights in emerging media can be assigned, and which works can be designated as "made for hire" by contract. Thus, while the basic model of copyright presumes that authors are rational actors, many of its actual provisions suppose that authors are not capable of understanding or protecting their own economic interests. This Article highlights and seeks to understand the tension between these two different conceptions of the author.

Building on recent critiques of copyright's incentive model and on the insights of behavioral law and economics, this Article envisions what a more unabashedly paternalistic copyright regime might look like. Such a view accepts that authors, like all of us, are not rational actors; they are short-sighted, lack bargaining power, and respond weakly to distant and uncertain economic incentives. If we take this account seriously, copyright's existing paternalistic provisions are inadequate solutions to the behavioral failures that they purport to remedy. Instead, a truly paternalistic copyright regime would provide meaningful protections for authors against one-sided copyright transfers, and rely on more tailored and direct incentives for artistic creation.

IMAGES OF HARASSMENT: COPYRIGHT LAW AND REVENGE PORN
in Federal Bar Council Quarterly by Ari Ezra Waldman on 12/3/15
URL: http://ssrn.com/abstract=2698720

Nonconsensual pornography, commonly known as "revenge porn," usually occurs when an individual (usually a man) publicly posts online sexually explicit images of his former partner (usually a woman). Although normally the stuff of tort law, revenge porn offers copyright attorneys opportunities to help victims, as well: the offending images are often selfies taken by the victim and thus covered by the victim's copyright. There is, to date, no Second Circuit case law on the subject, making this area uniquely suited to creative social impact litigation. Until state legislatures or Congress pass well-drafted criminal revenge porn statutes, copyright law remains a necessary though inadequate weapon to combat revenge porn in the Second Circuit and elsewhere.
Recent decisions in both the Ninth (Garcia v. Google) and Second (Casa Duse 16) Circuit have applied concepts of "mastermind" authorship or "dominant author" to claims of copyright in individual contributions of actors and directors to a motion picture. This article, which is a transcript of a presentation at Columbia Law School, describes the roots of the "mastermind" concept in copyright and argues for its mis-application in this context.

August 2016

PARADISE LOST OR FANTASY ISLAND? THE PAYMENT OF BRITISH AUTHORS IN 19TH CENTURY AMERICA
by Stan J. Liebowitz on 8/13/2016
URL: http://ssrn.com/abstract=2820336

The payments to British authors by American publishers during the mid-19th century, when the works of British authors lacked American copyright protection, has been presented as evidence that copyright might have little benefit to authors. This paper reexamines the evidence that has been used to support this claim and then presents previously unexamined information on payments to British authors by leading American publishers of the period. The main finding is that payments to British authors were minimal or non-existent prior to the establishment of a non-compete agreement among leading American publishers. Even after implementation of this agreement, many British authors were not paid, and those who were paid received considerably less than they would have received under copyright. Because antitrust disallows such agreements, this 19th natural experiment indicates that the removal of copyright in modern economies would likely eviscerate payments to authors.
agreements, this 19th natural experiment indicates that the removal of copyright in modern economies would likely eviscerate payments to authors.

THE ELEMENTS OF MUSIC RELEVANT FOR COPYRIGHT PROTECTION
in Concepts of Music and Copyright by Andreas Rahmatian on 12/15/15
URL: http://ssrn.com/abstract=2755008

One may argue that copyright law has no genuine understanding of the nature of music as an art form; it attaches to certain aspects of music which it declares as normatively relevant and thus ascertains building blocks of the legal protection system. In this way music is considered as an object of legal transactions, especially as an object of transferable property. This is a result of the translation process of music into legal categories. This chapter looks at the elements and stages of this process, starting with sketching out a philosophical discussion of the phenomenon of music as a basis for copyright protection.

DISCRIMINATION IN THE COPYRIGHT CLAUSE
in Alabama Law Review by Ned Snow on 4/1/16
URL: http://ssrn.com/abstract=2757751

Does Congress have power to deny copyright protection for specific content? The Copyright Clause grants Congress power to "promote the Progress of Science" by legislating copyright laws. Certainly some content may reasonably be viewed as failing to promote the progress of science. Violent video games or pornography, for instance, may reasonably be viewed as not promoting progress in science, even though they receive protection as free speech under the First Amendment. So even if the Free Speech Clause bars Congress from banning content, does the Copyright Clause provide Congress a permissible means to discourage production of that content?

This Article considers whether such content-based copyright denial is permissible under Congress's copyright power. Neither courts nor scholars have considered this question, despite the fact that lawmakers are presently seeking to control negative effects of specific content. This Article posits that the copyright power provides Congress that means. The Copyright Clause's mandate to promote the progress of science suggests a power to exercise content discrimination. At the same time, denying copyright to content would not prevent content creators from engaging in, and even profiting from, any speech protected by the First Amendment. The Article concludes that the Copyright Clause provides a constitutional tool for fixing content-based problems.

UNIVERSITY ACADEMICS AS EMPLOYEES AND CREATORS OF COPYRIGHT WORKS: UNIVERSITY ACADEMICS AS OWNERS OF COPYRIGHT?
in European Intellectual Property Review by Andreas Rahmatian on 6/10/15
URL: http://ssrn.com/abstract=2755532
The creation and exploitation of copyright that protects the works of university academics has become increasingly relevant to the managements of universities. Copyright covers all academic output, whether in the arts, social sciences or the sciences. This article discusses the question of ownership of copyright in works created by academics as employees of their universities. The issue is not as straightforward as one may think. Furthermore, university IP policies often seem to take a too undifferentiated and legally problematic view in this matter.

FAIR USE AND THE FUTURE OF ART
in N.Y.U.L. Rev. by Amy Adler on 8/17/16
URL: http://ssrn.com/abstract=2825076

Twenty-five years ago, in a seminal article in the Harvard Law Review, Judge Leval changed the course of copyright jurisprudence by introducing the concept of "transformativeness" into fair use law. Soon thereafter, the Supreme Court embraced Judge Leval's new creation, calling the transformative inquiry the "heart of the fair use" doctrine. As Judge Leval conceived it, the purpose of the transformative inquiry was to protect the free speech and creativity interests that fair use should promote by offering greater leeway for creators to build on preexisting works. In short, the transformative standard would ensure that copyright law did not "stifle the very creativity which that law [was] designed to foster."

This Article shows that the transformative test has not only failed to accomplish this goal; the test itself has begun to "stifle the very creativity which that law was designed to foster." In the realm of the arts, one of the very areas whose progress copyright law is designed to promote, the transformative standard has become an obstacle to creativity. Artistic expression has emerged as a central fair use battleground in the courts. At the same time that art depends on copying, the transformative test has made the legality of copying in art more uncertain, leaving artists vulnerable to lawsuits under a doctrine that is incoherent and that fundamentally misunderstands the very creative work it governs. The transformative test has failed art. This Article shows why and what to do about it, turning to the art market itself as a possible solution to the failure of the transformative use test.

CLONES, THUGS, 'N (EVENTUAL?) HARMONY: USING THE FEDERAL RULES OF CIVIL PROCEDURE TO SIMULATE A STATUTORY DEFAMATION DEFENSE AND MAKE THE WORLD SAFE FROM COPYRIGHT BULLIES
in DePual L. Rev. by Robert T. Sherwin on Spring 2015
URL: http://ssrn.com/abstract=2826099

In the 1980s and '90s, companies like Apple and Microsoft introduced the world to products that, by the early 2000's, enabled each of us to be artistic creators in ways that were unimaginable mere decades ago. The internet revolution of the early aughts has allowed us to be instantaneous global self-distributors of that work. Although copyright thugs-those who use litigation or the threat of it to snuff out what is clearly fair use-are not a new problem, their ranks are ever-
increasing in today's world of music mashups, YouTube cover videos, and viral Facebook memes that build upon and transform existing works. Creators must feel free to make fair use of others' work. But the fair-use doctrine has arguably become little more than "the right to hire a lawyer" to defend your actions in court. That defense can costs hundreds of thousands of dollars, so standing up to copyright bullies is not cheap.

State legislatures have combated a similar type of bullying in defamation cases by enacting what are known as "anti-SLAPP" statutes. Litigants and judges can utilize existing rules of civil procedure, along with the attorney-fee-shifting provision in the Copyright Act, to simulate an anti-SLAPP effect in federal copyright actions. If these procedures are followed by copyright defendants and courts, we may begin to see a decrease in bullying, and creators will begin to feel free to make fair use of existing media.

INTELLECTUAL PROPERTY, ANTITRUST, AND THE RULE OF LAW: BETWEEN PRIVATE POWER AND STATE POWER
in Theoretical Inquiries in Law by Ariel Katz on 8/26/16
URL: http://ssrn.com/abstract=2830611

This Article explores the rule of law aspects of the intersection between intellectual property and antitrust law. Contemporary discussions and debates on intellectual property (IP), antitrust, and the intersection between them are typically framed in economically oriented terms. This Article, however, shows that there is more law in law than just economics. It demonstrates how the rule of law has influenced the development of several IP doctrines, and the interface between IP and antitrust, in important, albeit not always acknowledged, ways. In particular, it addresses some limitations on IP rights, such as exhaustion and limitations on tying arrangements, are grounded in rule of law principles restricting the arbitrary exercise of legal power, rather than solely in considerations of economic efficiency.

The historical development of IP law has reflected several tensions, both economic and political, that lie at the heart of the constitutional order of the modern state: the tension between the benefits of free competition and the recognition that some restraints on competition may be beneficial and justified; the concern that power, even when conferred in the public interest, can often be abused and arbitrarily applied to advance private interests; and the tension between freedom of contract and property and freedom of trade. This Article explores how rule of law considerations have allowed courts to mediate these tensions, both in their familiar public law aspects but also in their less conspicuous private law dimensions, and how, in particular, they have shaped the development of IP doctrine and its intersection with antitrust law and the common law.

FROM ABUSE OF RIGHT TO EUROPEAN COPYRIGHT MISUSE: A NEW DOCTRINE FOR EU COPYRIGHT LAW
by Caterina Sganga & Silvia Scalzini on 7/31/16
URL: http://ssrn.com/abstract=2826240
The great expansion of EU copyright law has paved the way to several rightholders' abusive or dysfunctional conducts, without providing adequate solutions to prevent or remedy them. The answer of EU sources is characterized by extreme fragmentation, with tools mostly borrowed from external bodies of law. Paradoxically, the doctrine of abuse of right has long been neglected as a potential solution, mainly due to its flaws - difficult evidence-taking and weak remedies - and its incompatibility with the discretionary nature of continental author's rights. Yet, the notion emerges between the lines of several ECJ's decisions, and finds its way from civil codes to copyright in a number of national courts' precedents. Due to the paradigm shift towards a market-oriented and industry-based inspiration, EU copyright seems now open to admit the possibility of misuses.

Starting from these premises, this article argues that a unitary doctrine of copyright misuse may constitute an effective balancing tool for most of the dysfunctional conducts that copyright law and other bodies of law are still unable to resolve. In addition, it may also act as regulatory paradigm to ensure greater certainty and transparency in the judicial development of key principles and rules of EU copyright law. To this end, the paper (a) proposes a four-prong-test of abusiveness, embedding criteria of proportionality and reasonableness inspired to the normative function(s) of exclusive rights; (b) offers new perspectives on potential remedies; and (c) shows selected examples of the positive impact of the doctrine on the systematization of the current copyright legislative framework.

COPYRIGHT'S RACE, GENDER AND AGE: A FIRST QUANTITATIVE LOOK AT REGISTRATIONS
by Robert Brauneis & Dotan Oliar on 8/29/16
URL: http://ssrn.com/abstract=2831850

On a per capita basis, do African-American authors produce more copyright registrations than non-Hispanic whites? Do men and women show a within-group bias in choosing co-authors? And what decade in the average musician's life is the most productive? This article provides answers to these questions - which happen to be yes, yes, and the 20s, respectively - and many more by statistically analyzing the 15 million entries that comprise the Copyright Office's full record of registered works from 1978 through 2012. It provides a variety of perspectives on individuals' creativity in modern-day America and on the beneficiaries of our copyright system along the axes of race, gender and age. Its findings suggest a need to promote greater diversity and equality in the processes of cultural production and the making of social meaning.
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